CITY OF FORT BRAGG

LAND USE & DEVELOPMENT CODE

June 2004

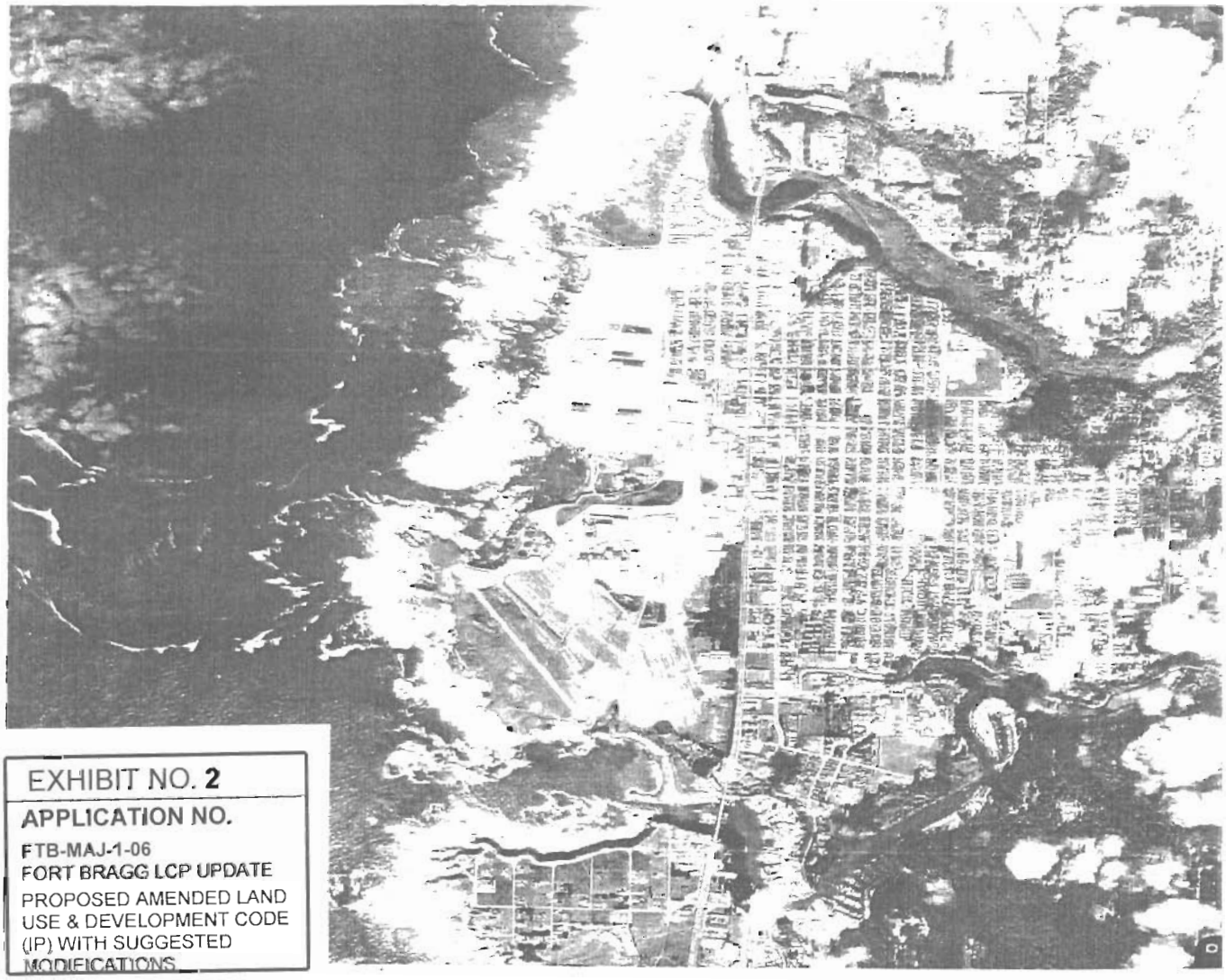

EXHIBIT NO. **2**

APPLICATION NO.

FTB-MAJ-1-06

FORT BRAGG LCP UPDATE

PROPOSED AMENDED LAND USE & DEVELOPMENT CODE (IP) WITH SUGGESTED MODIFICATIONS

Article 1
Land Use & Development Code Applicability

ARTICLE 1

Land Use and Development Code Applicability

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CHAPTER 18.10 - PURPOSE AND APPLICABILITY OF THE COASTAL LAND USE AND DEVELOPMENT CODE

Sections:

18.10.010 - Purposes of Land Use and Development Code
18.10.020 - Authority, Relationship to **Coastal** General Plan and Local Coastal Program
18.10.030 - Responsibility for Administration
18.10.040 - Applicability of the **Coastal** Land Use and Development Code

18.10.010 - Purposes of the Coastal Land Use and Development Code

Title 18 of the Fort Bragg Municipal Code constitutes the City of Fort Bragg **Coastal** Land Use and Development Code, hereafter referred to as "this Development Code." This Development Code, **in part, constitutes the Implementation Program portion of the City's Local Coastal Program and** carries out the policies of the Fort Bragg **Coastal** General Plan, **hereafter referred to as "General Plan,"** ~~and Local Coastal Program~~ by classifying and regulating the uses of land and ~~structures~~ **development** within the ~~City~~ **geographic portion of the City located within the coastal zone**, consistent with the General Plan ~~and the Local Coastal Program.~~ This Development Code is adopted to protect **coastal resources,** and to **protect and** promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents, and businesses in the City. More specifically, the purposes of this Development Code are to:

A. Provide standards and guidelines for the continuing orderly growth and development **within the coastal zone** of the City that will assist in protecting the character and community identity of Fort Bragg;

B. Conserve and protect the City's **coastal resources** ~~natural beauty and setting~~, including **public access opportunities, visitor and recreational facilities, marine resources, biological resources, environmentally sensitive habitat areas, archaeological resources,** waterways, hills and trees, scenic vistas, and **other** historic and environmental resources;

C. Create a comprehensive and stable pattern of land uses upon which to plan transportation, water supply, sewerage, energy, and other public facilities and utilities;

D. Minimize automobile congestion by promoting pedestrian-oriented development, safe and effective traffic circulation, and adequate off-street parking facilities; ~~and~~

E. Ensure compatibility between different types of development and land use**;**

F. Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners; and

G. To prevent damage and injury from disasters such as flood, tsunamis, and geologic hazards.

18.10.020 - Authority, Relationship to General Plan and Local Coastal Program

A. **Authority.** The regulations within this Development Code are enacted based on the authority vested in the City of Fort Bragg by the State of California, including but not limited to: the California Constitution; the Planning and Zoning Law (Government Code Section 65000 et seq.); the California Coastal Act (Public Resources Code Section 30000 et seq.); the Subdivision Map Act (Government Code Section 66410 et seq.); and the California Environmental Quality Act (Public Resources Code Section 21000 et seq.).

B. **Consistency with General Plan and Local Coastal Program (LCP).** This Development Code is a primary tool used by the City to carry out the goals, ~~objectives~~ **programs**, and policies of the Fort Bragg **Coastal** General Plan, ~~and Local Coastal Program~~. The Fort Bragg City Council intends that all provisions of this Development Code be consistent with the **Coastal** General Plan, ~~and Local Coastal Program, and that any land use, subdivision, or~~ **Any** development approved in compliance with these regulations ~~will also~~ **shall** be consistent with **this Development Code,** the **Coastal** General Plan, and **all other components of the** Local Coastal Program.

C. **LCP provisions.** The following provisions of this Development Code constitute the City's ordinances for the implementation of the Fort Bragg LCP, in compliance with the California Coastal Act:

Article 1 - Land Use and Development Code Applicability
Article 2 - Zoning Districts and Allowable Land Uses
~~Article 3 - Section 18.30.040 - Archaeological Resource Preservation~~
Article 3 - Site Planning and Project Design Standards
Article 4 – Standards for Specific Land Uses (excluding Chapter 18.40 Adult Oriented Business Regulations)
Article 5 - Resource Management
Article 6 - Site Development Regulations
Article 7 – Planning Permit Procedures (excluding Chapter 18.72 Environmental Impact Assessment and Mitigation Monitoring)
~~Article 3 - Section 18.71.040 - Coastal Development Permits~~
~~Article 7 - Chapter 18.74 - Cultural Resource Protection~~
~~Article 7 - Chapter 18.76 - Permit Implementation, Time Limits and Extensions~~
Article 8 – Subdivision Regulations and Procedures
Article 9 – Land Use and Development Code Administration (excluding Chapter 18.98 Enforcement and Penalties)
~~Article 9 - Chapter 18.92 - Appeals~~
~~Article 9 - Chapter 18.94 - Amendments~~
~~Article 9 - Chapter 18.96 - Public Hearings~~
Article 10 - Glossary

The following Chapters are not part of the certified LCP and shall not govern the review and approval of coastal development permits:

Chapter 18.40 Adult Oriented Business Regulations;
Chapter 18.72 Environmental Impact Assessment and Mitigation Monitoring; and
Chapter 18.98 Enforcement and Penalties

18.10.030 - Responsibility for Administration

A. **Responsible bodies and individuals.** This Development Code shall be administered by: the Fort Bragg City Council, hereafter referred to as the "Council;" the Planning Commission, referred to as the "Commission;" the Community Development Director, referred to as the "Director;" and the Community Development Department, hereafter referred to as the "Department."

B. **Exercise of discretion.** In the event that a provision of this Development Code allows the review authority for a permit or other decision to exercise discretion in the application of a specific standard or requirement to a project, but does not identify specific criteria for a decision, discretion shall be based on the following criteria:

1. The proposed project complies with all applicable provisions of this Development Code;

2. The exercise of discretion will act to improve the compatibility of the proposed project with its site, surrounding properties, and the community, to a greater extent than if discretion were not exercised;

3. The manner in which discretion is exercised will result in a more practical application of the provisions of this Development Code given specific characteristics of the site and its surroundings than if discretion were not exercised; and

4. The decision is consistent with the General Plan, Local Coastal Program, or any other applicable regulation or standard.

18.10.040 - Applicability of the Coastal Land Use and Development Code

This Development Code applies to all land uses, subdivisions, and **other** development **as defined by Article 10 (Glossary) of this Development Code** within the **geographic portion of the** City of Fort Bragg **located within the coastal zone** ~~as follows.~~

~~A. **New land uses or structures, changes to land uses or structures.** It shall be unlawful, and a violation of this Development Code for any person to establish, construct, reconstruct, alter, or replace any use of land or structure, except in compliance with the requirements of Section 18.20.020 (General Requirements for Development and New Land Uses), and Chapter 18.90 (Nonconforming Uses, Structures, and Parcels). No Building Permit or Grading Permit shall be issued by the City unless the proposed construction complies with all applicable provisions of this Development Code.~~

B. **Subdivisions.** Any subdivision of land proposed within the City after the effective date of this Development Code shall be consistent with the minimum parcel size requirements of Article 2 (Zoning Districts and Allowable Land Uses), Article 8 (Subdivision Regulations and Procedures), and all other applicable requirements of this Development Code.

C. **Continuation of an existing land use.** An existing land use is lawful and not in violation of this Development Code only when operated and maintained in compliance with all applicable provisions of this Development Code, including Chapter 18.90 (Nonconforming Uses, Structures, and Parcels). However, the requirements of this Development Code are not retroactive in their effect on a land use that was lawfully established before the effective date of this Development Code or any applicable amendment, except as otherwise provided by Chapter 18.90.

D. **Effect of Development Code changes on projects in progress.**

1. A planning permit application (Article 7) that has been accepted by the Department as complete prior to the effective date of this Development Code or any amendment, shall be processed in compliance with the requirements in effect when the application was accepted as complete.

2. A project that is under construction ~~on~~ **prior to** the effective date of this Development Code ~~or any amendment~~, need not be changed to satisfy any new or different requirements of this Development Code, provided that the approved use of the site shall be established, including the completion of all structures and other features of the project as shown on the approved permit, before the expiration of the permit, or applicable time extension.

E. **Minimum requirements.** The provisions of this Development Code shall be minimum requirements for the promotion of the public health, safety, and general welfare. When this Development Code provides for discretion on the part of a review authority (designated City official or body), that discretion may be exercised to impose more stringent requirements than set forth in this Development Code, as may be determined by the applicable review authority to be necessary to promote orderly land use and development, environmental resource protection, and the other purposes of this Development Code.

F. **Conflicting requirements:**

1. **Development Code and Municipal Code provisions.** If conflicts occur between requirements of this Development Code, or between this Development Code and the Fort Bragg Municipal Code, or other regulations of the City, the most restrictive shall apply.

2. **Development agreements or specific plans.** If conflicts occur between the requirements of this Development Code and standards **previously** adopted as part of any development agreement ~~or applicable specific plan~~, the requirements of the development agreement ~~or specific plan~~ shall apply.

   a. A development agreement vests on approval, but it shall not change otherwise applicable Development Code requirements.

   b. All development agreements entered into after the effective date of the Coastal General Plan or the Coastal Land Use and Development Code shall be consistent with the Coastal General Plan and the Coastal Land Use and Development Code.

   ~~b. In the event of a conflict between the provisions of an adopted specific plan and this Development Code, this Development Code should be amended to be consistent with the specific plan.~~

3. **Private agreements.** This Development 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, or a portion thereof.

G. **Federal lands.** Federal agencies are not subject to the provisions and permit requirements of these regulations, the City's Local Coastal Program, or the permit requirements of the **California Coastal Act** ~~Coastal Commission~~, but are subject to the consistency process provided by the federal Coastal Zone Management Act (CZMA). Non-federal development on federal lands may be subject to both the CZMA consistency process, and the requirements of this Land Use and Development Code and the **California Coastal Act** ~~Coastal Commission~~.

H. **State, County, Local Agency, and School District sites and facilities.** The requirements of this Development Code shall apply to all sites and facilities of the State of California, County of Mendocino, and any school district or other local agency within the City to the maximum extent allowed by law.

I. **Other requirements may apply.** Nothing in this Development Code eliminates the need for obtaining any other permits required by the City, or any permit, approval or entitlement required by any other applicable special district or agency, and/or the regulations of any State, or Federal agency.

CHAPTER 18.12 - INTERPRETATION OF CODE PROVISIONS

Sections:

18.12.010 - Purpose
18.12.020 - Authority
18.12.030 - Rules of Interpretation

18.12.010 - Purpose

This Chapter provides rules for resolving questions about the meaning or applicability of any part of this Development Code. The provisions of this Chapter are intended to ensure the consistent interpretation and application of the requirements of this Development Code and the **Coastal** General Plan.

18.12.020 - Authority

The Director has the authority to interpret any provision of this Development Code. Whenever the Director determines that the meaning or applicability of any Development Code requirement is subject to interpretation, the Director may issue an official interpretation. The Director may also refer any issue of interpretation to the Commission for their determination. A decision of the Director may be appealed to the Council through the administrative appeal procedure.

18.12.030 - Rules of Interpretation

A. **Language.** When used in this Development Code, the words "shall," "must," "will," "is to," and "are to" are always mandatory. "Should" is not mandatory but is strongly recommended; and "may" is permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the natural construction of the word indicates otherwise. The words "includes" and "including" shall mean "including but not limited to . . ."

B. **Time limits.** Whenever a number of days is specified in this Development Code, or in any permit, condition of approval, or notice provided in compliance with this Development Code, the number of days shall be construed as calendar days **unless otherwise specified**. A time limit shall extend to 5 p.m. on the following working day where the last of the specified number of days falls on a weekend, holiday, or other day the City is not open for business.

C. **Zoning Map boundaries.** See Section 18.14.020 (Zoning Map and Zoning Districts).

D. **Allowable uses of land.** See Section 18.20.030 (Allowable Land Uses and Planning Permit Requirements).

E. **State law requirements.** Where this Development Code references applicable provisions of State law (for example, the California Government Code, Coastal Act, Subdivision Map Act, or Public Resources Code), the reference shall be construed to be to the applicable State law provisions as they may be amended from time to time.

F. **Conflicts. Where provisions of this Development Code overlap or conflict, the provision which is the most protective of coastal resources shall take precedence.**

CHAPTER 18.14 - ZONING MAP

Sections:

18.14.010 - Purpose
18.14.020 - Zoning Map and Zoning Districts

18.14.010 - Purpose

This Chapter establishes the zoning districts applied to property within the City and adopts the City's Zoning Map.

18.14.020 - Zoning Map and Zoning Districts

The Council hereby adopts the City of Fort Bragg Zoning Map (hereafter referred to as the "Zoning Map"), which is on file with the Department. The Zoning Map is hereby incorporated into this Development Code by reference as though it were fully included here.

A. **Zoning districts established.** The City of Fort Bragg shall be divided into zoning districts that implement the Fort Bragg **Coastal** General Plan. The zoning districts shown in Table 1-1 are hereby established, and shall be shown on the Zoning Map.

B. **Interpretation of zoning district boundaries.** If there is uncertainty about the location of any zoning district boundary shown on the official Zoning Map, the location of the boundary shall be determined by the Director as follows.

1. Where a district boundary approximately follows a lot line, alley, or street line, the lot line, street or alley centerline shall be construed as the district boundary, as applicable;

2. If a district boundary divides a parcel and the boundary line location is not specified by distances printed on the Zoning Map, the location of the boundary will be determined by using the scale appearing on the Zoning Map; and

3. Where a public street or alley is officially vacated or abandoned, the property that was formerly in the street or alley will be included within the zoning district of the adjoining property on either side of the vacated or abandoned street or alley.

TABLE 1-1 - ZONING DISTRICTS

Zoning District Symbol	Name of Zoning District	General Plan Designation Implemented by Zoning District
Residential Districts		
RR	Rural Residential	RR~~1~~ - Rural Residential
RS	Suburban Residential	~~SR~~ **RS** - Suburban Residential
RL	Low Density Residential	~~R1~~ **RL** - Low Density Residential
RM	Medium Density Residential	~~R2~~ **RM** - Medium Density Residential
RH	High Density Residential	~~R3~~ **RH** - High Density Residential
RVH	Very High Density Residential	~~R4~~ **RVH** - Very High Density Residential
Commercial Districts		
CN	Neighborhood Commercial	~~C1~~ **CN** - Neighborhood Commercial
CO	Office Commercial	~~C4~~ **CO** - Office Commercial
CBD	Central Business District	CBD - Central Business District
CG	General Commercial	~~C2~~ **CG** - General Commercial
CH	Highway Visitor Commercial	~~C3~~ **CH** - Highway Visitor Commercial
Industrial Districts		
IL	Light Industrial	~~LI~~ **IL** - Light Industrial
IH	Heavy Industrial	~~HI~~ **IH** - Heavy Industrial
IT	Timber Resources Industrial	~~TRI~~ **IT** - Timber Resources Industrial
HD	Harbor District	HD - Harbor District
Special Purpose Districts		
OS	Open Space	OS - Open Space
PR	Parks and Recreation	PR - Parks and Recreation
PF	Public Facility	PF - Public Facilities and Services
~~**Combining Districts**~~		
~~CZ~~	~~Coastal Zone~~	~~All~~

Article 2
Zoning Districts and Allowable Land Uses

ARTICLE 2

Zoning Districts & Allowable Land Uses

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CHAPTER 18.20 - DEVELOPMENT AND LAND USE APPROVAL REQUIREMENTS

Sections:

18.20.010 - Purpose
18.20.020 - General Requirements for Development and New Land Uses
18.20.030 - Allowable Land Uses and Planning Permit Requirements
~~18.20.040 - Exemptions from Planning Permit Requirements~~
18.20.050 - Temporary Uses

18.20.010 - Purpose

This Chapter describes the City's **general** requirements for ~~the approval of~~ proposed development and new land uses**, allowable land uses, and planning permit requirements**. The permit requirements established by this Development Code for specific land uses are in Chapters 18.21 through 18.28.

18.20.020 - General Requirements for Development and New Land Uses

All development and ~~Each~~ land use ~~and/or structure shall be established, constructed, reconstructed, altered, moved or replaced in compliance~~ **shall comply** with the following requirements.

A. **Allowable use.** The land use shall be allowable by this Development Code in the zoning district applied to the site. The basis for determining whether a use is allowable is described in Section 18.20.030 (Allowable Land Uses and Planning Permit Requirements).

B. **Permit and approval requirements.**

1. **Planning permit.** Any planning permit or other approval required by Section 18.20.030 (Allowable Land Uses and Planning Permit Requirements) **and any required coastal development permit** shall be obtained before the issuance of any required grading, building, or other construction permit, and before the proposed use is constructed, otherwise established or put into operation~~, unless the proposed use is listed in Section 18.20.040 (Exemptions from Planning Permit Requirements)~~.

~~2. **Coastal Development Permit.** A project proposed within the Coastal Zone may be required by Section 18.71.040 (Coastal Development Permit) to obtain Coastal Development Permit approval in addition to a planning permit.~~ When required, a ~~City~~ Coastal Development Permit ~~will~~ **may** be processed concurrently with any other required planning permit **except for Design Review approval, which must be obtained prior to the coastal development permit.**

C. **Development standards, conditions of approval.** ~~Each land use and structure~~ **All development** shall comply with the **certified Local Coastal Program, the General Plan, all applicable development** standards of this **Development Code,** ~~Chapter, applicable standards and requirements in Articles 3 (Site Planning and Project Design Standards), 4 (Standards for Specific Land Uses), 5 (Resource Management), and 6 (Site Development Regulations)~~, and any applicable conditions imposed by a previously granted planning permit.

D. **Legal parcel.** ~~The site of a p~~ Proposed development or new land use shall **only** be **sited on** a parcel that was legally created in compliance with the Subdivision Map Act and Article 8 (Subdivision Regulations and Procedures)**, and had received any necessary coastal development permit. Parcels created after March 1, 1972, the effective date of the Coastal Zone Conservation Act, if applicable, that was not authorized by a required CDP or otherwise authorized under the Coastal Act, are not legal parcels.**

18.20.030 - Allowable Land Uses and Planning Permit Requirements

A. **Allowable land uses.** The uses of land allowed by this Development Code in each zoning district are listed in: Chapters 18.21,Table 2-1; 18.22, Table 2-6; 18.24, Table 2-10; and 18.26, Table 2-14; together with the type of planning permit required for each use. Each land use listed in the tables is defined in Article 10 (Glossary). **In addition to the required planning permit listed in Chapters 18.21,Table 2-1; 18.22, Table 2-6; 18.24, Table 2-10; and 18.26, Table 2-14, a coastal development permit may also be required for any change in the density or intensity of use or other development of land.**

1. **Establishment of an allowable use.**

   a. Any one or more land uses identified by Tables 2-1, 2-6, 2-10, and 2-14 as being allowable within a specific zoning district may be established on any parcel within that zoning district, subject to the planning permit requirements of Subsection B, and compliance with all applicable requirements of **the Local Coastal Program, and** this Development Code.

   b. Where a single parcel is proposed for development with two or more of the land uses listed in the tables at the same time, the overall project shall be subject to the highest permit level required by Subsection B. for any individual use. For example, a new building proposed in the CN zoning district with a bank on the ground floor and a doctor's office on the second floor would require Use Permit (UP) approval because Table 2-6 requires Use Permit approval for "banks and financial services," even though an "Medical Services - Doctor Office" is listed in the CN zone as a permitted use, requiring only a Zoning Clearance.

2. **Use not listed.**

   a. A land use that is not listed in Tables 2-1, 2-6, 2-10, or 2-14, and is determined by the Director to not be included in Article 10 (Glossary) under the definition of a listed land use, is not allowed within the City, except as otherwise provided Subsection A.3, or Section 18.20.040 ~~(Exemptions from Planning Permit Requirements)~~.

   b. A land use that is not listed in the tables within a particular zoning district is not allowed within that zoning district, except as otherwise provided Subsection A.3~~, or Section 18.20.040~~.

3. **Similar and compatible use may be allowed.** The Director may determine that a proposed use not listed in this Article is allowable as follows:

   a. **Required findings.** The Director may determine that a proposed use is similar to and compatible with a listed use and may be allowed, only after first making all of the following findings with the determination:

      (1) The characteristics of, and activities associated with the use are similar to one or more of the listed uses, and will not involve a greater intensity than the uses listed in the district;

      (2) The use will be consistent with the purposes of the applicable zoning district;

      (3) The use will be consistent with the General Plan, Local Coastal Program, and any applicable specific plan;

      (4) The use will be compatible with the other uses allowed in the district; and

(5) The use is not listed as allowable in another zoning district.

(6) The use will not have an adverse effect on coastal resources.

(7) The use will ensure adequate services will be provided to serve the proposed development.

(8) The use will not displace Coastal Act priority uses.

A determination that a use qualifies as a similar and compatible use, and the findings supporting the determination shall be in writing.

b. **Applicable standards and permit requirements.** When the Director determines that a proposed, but unlisted, use is similar and compatible to a listed use, the proposed use will be treated in the same manner as the listed use in determining where it is allowed, what permits are required, and what other standards and requirements of this Development Code apply.

c. **Referral for determination.** The Director may refer the question of whether a proposed use qualifies as a similar and compatible use directly to the Commission for a determination at a public meeting.

d. **Appeal.** A determination of similar and compatible use may be appealed in compliance with Chapter 18.82 (Appeals).

B. **Permit requirements.** Tables 2-1, 2-6, 2-10, and 2-14 within Chapters 18.21 through 18.26 provide for land uses that are:

1. Permitted subject to compliance with all applicable provisions of this Development Code, subject to first obtaining a Zoning Clearance (Section 18.71.020). These are shown as "P" uses in the tables;

2. Allowed subject to the approval of a Minor Use Permit (Section 18.71.060), and shown as "MUP" uses in the tables;

3. Allowed subject to the approval of a Use Permit (Section 18.71.060), and shown as "UP" uses in the tables;

4. Allowed subject to the type of City approval required by a specific provision of Chapter 18.42 (Standards for Specific Land Uses), and shown as "S" uses in the tables; and

5. Not allowed in particular zoning districts, and shown as "-" in the tables.

Note: a land use authorized through the approval of a Zoning Clearance, Minor Use Permit, or Use Permit may also require a Coastal Development Permit (Section 18.71.040), Design Review approval (Section 18.71.050), a Building Permit, and/or other permit required by the Municipal Code.

~~18.20.040 - Exemptions from Planning Permit Requirements~~

~~The planning permit requirements of this Development Code do not apply to the land uses, structures, and activities identified by this Section. These are allowed in all zoning districts subject to compliance with this Section, except within the Coastal Zone, where exemptions to Coastal Development Permit requirements are instead provided by Section 18.71.040 (Coastal Development Permit).~~

~~A. **General requirements for exemption.** The land uses, structures, and activities identified by Subsection B. below are exempt from the planning permit requirements of this Development Code only when:~~

1. The use, activity or structure is established and operated in compliance with the setback requirements, height limits, and all other applicable standards of this Article (Zoning Districts and Allowable Land Uses), and Articles 3 (Site Planning and Project Design Standards), 4 (Standards for Specific Land Uses), 5 (Resource Management), 6 (Site Development Regulations) and, where applicable, Chapter 18.90 (Nonconforming Uses, Structures, and Parcels); and

2. Any permit or approval required by regulations other than this Development Code is obtained (for example, a Building Permit).

B. **Exempt activities and land uses.** The following, when located outside of the Coastal Zone, are exempt from the planning permit requirements of this Development Code when in compliance with Subsection A. above. Exemptions from Coastal Development Permit requirements are instead established by Section 18.71.040 (Coastal Development Permit).

1. **Decks, paths and driveways.** Decks, platforms, on-site paths, and driveways that are not required to have a Building Permit or Grading Permit.

2. **Fences and walls.** See Section 18.30.050 (Fences and Walls).

3. **Interior remodeling.** Interior alterations that do not increase the gross floor area of the structure, or change the permitted use of the structure.

4. **Repairs and maintenance.**

   a. **Single-family dwellings.** Ordinary repairs to, and maintenance of, single-family dwellings.

   b. **Multi-family, and non-residential structures.** Ordinary repairs to, and maintenance of multi-family residential and non-residential structures, if:

      (1) The work does not change the approved land use of the site or structure, or add to, enlarge or expand the land use and/or structure; and

      (2) Any exterior repairs employ the same materials and design as the original construction.

5. **Small, portable residential accessory structures.** A single portable structure per lot or unit, including pre-manufactured storage sheds or other small structures in residential zoning districts, that are exempt from Building Permit requirements in compliance with the Municipal Code and the Uniform Building Code. Additional structures may be approved in compliance with Section 18.42.160 (Residential Accessory Uses and Structures), where allowed by the applicable zoning district.

6. **Solar collectors.** The addition of solar collectors to the roof or side of a building, provided that the collectors comply with applicable height limit requirements; and ground-mounted solar collectors that comply with the setback requirements and height limitations of the applicable zoning district and are not visible from off the site.

7. **Spas, hot tubs, and fish ponds.** Portable spas, hot tubs, and constructed fish ponds, and similar equipment and structures that do not: exceed 120 square feet in total area including related equipment; contain more than 2,000 gallons of water; or exceed three feet in depth.

8. **Utilities.** The erection, construction, alteration, or maintenance by a public utility or public agency of utilities intended to service existing or nearby approved developments shall be permitted in any zoning district. These include: water; gas; electric; supply or disposal systems; including wires, mains, drains, sewers, pipes,

~~conduits, cables, fire-alarm boxes, police call boxes, traffic signals, hydrants, etc., but not including new transmission lines and structures. Satellite and wireless communications antennas are not exempt, and are instead subject to Chapter 18.44 (Telecommunications Facilities).~~

18.20.050 - Temporary Uses

Requirements for establishing a temporary use (for example, a construction yard, seasonal sales lot, special event, temporary office trailer, etc.) are in Section 18.71.030 (Limited Term Permit).

CHAPTER 18.21 - RESIDENTIAL ZONING DISTRICTS

Sections:

18.21.010 - Purpose
18.21.020 - Purposes of the Residential Zoning Districts
18.21.030 - Residential District Allowable Land Uses and Permit Requirements
18.21.040 - Residential District Subdivision Standards
18.21.050 - Residential District Site Planning and Building Standards
18.21.060 - Commercial Uses in Residential Zoning Districts

18.21.010 - Purpose

This Chapter lists the land uses that may be allowed within the Residential zoning districts established by Section 18.14.020 (Zoning Map and Zoning Districts), determines the type of planning permit/approval required for each use, and provides basic standards for site layout and building size.

18.21.020 - Purposes of the Residential Zoning Districts

The purposes of the individual residential zoning districts and the manner in which they are applied are as follows.

A. **RR (Rural Residential) zoning district.** The RR zoning district is applied to areas on the northern fringes of the City that are appropriate for single-family dwellings in a semi rural environment that can also accommodate lower intensity agricultural land uses. The maximum allowable residential density within the RR district ranges from one dwelling unit per five acres to one dwelling unit per acre, with the maximum density allowed on specific property being identified on the Zoning Map by means of a numerical suffix to the RR zoning district symbol (see Section 18.21.040 - Residential District Subdivision Standards). The RR zoning district implements and is consistent with the RR5, RR2, RR1, and RR land use designations of the General Plan.

B. **RS (Suburban Residential) zoning district.** The RS zoning district is applied to areas of the City that are appropriate for single-family dwellings, but where infrastructure limitations and/or environmental constraints limit the ability for development to achieve urban densities. The maximum allowable residential density within the RS district ranges from one to three dwelling units per acre, with the maximum density allowed on specific property being identified on the Zoning Map by means of a numerical suffix to the RS zoning district symbol (see Section 18.21.040 - Residential District Subdivision Standards). The RS zoning district implements and is consistent with the SR land use designation of the General Plan.

C. **RL (Low Density Residential) zoning district.** The RL zoning district is applied to areas of the City that are appropriate for neighborhoods of single-family dwellings on standard urban lots, surrounding the more densely developed core of the City. This zone also allows limited, neighborhood serving commercial uses on small, appropriately located individual parcels, or as small, pedestrian-oriented neighborhood centers. The maximum allowable residential density within the RL district ranges from three to six dwelling units per acre; the maximum floor area ratio (FAR) for non-residential uses is 0.40. The RL zoning district implements and is consistent with the ~~R1~~ RL land use designation of the General Plan.

D. **RM (Medium Density Residential) zoning district.** The RM zoning district is applied to areas of the City that are appropriate for neighborhoods with a variety of housing types located in proximity to parks, schools, and public services. This zone also allows limited, neighborhood serving commercial uses on small, appropriately located individual parcels, or as small, pedestrian-oriented neighborhood centers. The maximum allowable residential density

within the RM district ranges from six to 12 dwelling units per acre; the maximum floor area ratio (FAR) for non-residential uses is 0.40. The RM zoning district implements and is consistent with the ~~R2~~ **RM** land use designation of the General Plan.

E. **RH (High Density Residential) zoning district.** The RH zoning district is applied to areas of the City that are appropriate for a variety of higher density housing types, primarily on larger parcels where innovative site design can provide the desired mixture of housing types, aesthetic and functional open space areas, and other features that enhance the development and neighborhood. This zone also allows limited, neighborhood serving commercial uses on small, appropriately located individual parcels, or clusters of retail establishments. The maximum allowable residential density within the RH district ranges from 10 to 15 dwelling units per acre; the maximum floor area ratio (FAR) for non-residential uses is 0.40. The RH zoning district implements and is consistent with the ~~R3~~ **RH** land use designation of the General Plan.

F. **RVH (Very High Density Residential) zoning district.** The RVH zoning district is applied to areas of the City that are appropriate for high density multi-family housing near commercial areas and public services. This zone also allows limited, neighborhood serving commercial uses on small, appropriately located individual parcels or clusters of retail establishments. The maximum allowable residential density within the RVH district ranges from 12 to 24 dwelling units per acre; the maximum floor area ratio (FAR) for non-residential uses is 0.40. The RVH zoning district implements and is consistent with the ~~R4~~ **RVH** land use designation of the General Plan.

18.21.030 - Residential District Allowable Land Uses and Permit Requirements

A. **General permit requirements.** Table 2-1 identifies the uses of land allowed by this Development Code in each residential zoning district, and the planning permit required to establish each use, in compliance with Section 18.20.030 (Allowable Land Uses and Planning Permit Requirements). **A Coastal Development Permit shall be required for all development, including a change in land use in compliance with Secton 18.71.040, and such CDP shall be fully consistent with all applicable provisions of the certified LCP. A land use may also require a Design Review approval (Section 18.71.050), a Building Permit, and/or other permit required by the Municipal Code.**

B. **Requirements for certain specific land uses.** Where the last column in Table 2-1 ("Specific Use Regulations") includes a section number, the referenced section may affect whether the use requires a Zoning Clearance, Minor Use Permit, or Use Permit, and/or may establish other requirements and standards applicable to the use.

TABLE 2-1
Allowed Land Uses and Permit Requirements for Residential Zoning Districts

P	Permitted Use, Zoning Clearance required
MUP	Minor Use Permit required (see Section 18.71.060)
UP	Use Permit required (see Section 18.71.060)
S	Permit requirement set by Specific Use Regulations
—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT						Specific Use Regulations
	RR	RS	RL	RM	RH	RVH	
AGRICULTURAL, RESOURCE & OPEN SPACE USES							
Agricultural accessory structure	P	P	—	—	—	—	18.42.030
Animal keeping	S	S	S	S	S	S	18.42.040
Crop production, horticulture, orchard, vineyard	P	P	P	P	P	P	
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES							
Equestrian facility	UP	—	—	—	—	—	
Golf course	UP	—	—	—	—	—	
Meeting facility, public or private	UP	UP	UP	UP	UP	UP	
Park, playground	P	P	P	P	P	P	
Private residential recreation facility	—	—	MUP	MUP	MUP	MUP	
School - Private	UP	UP	UP	UP	UP	UP	
School - Public	P	P	P	P	P	P	

Key to Zoning District Symbols

RR	Rural Residential	RM	Medium Density Residential
RS	Suburban Residential	RH	High Density Residential
RL	Low Density Residential	RVH	Very High Density Residential

Notes:

(1) See Article 10 for land use definitions.

TABLE 2-1
Allowed Land Uses and Permit Requirements for Residential Zoning Districts

P	Permitted Use, Zoning Clearance required
MUP	Minor Use Permit required (see Section 18.71.060)
UP	Use Permit required (see Section 18.71.060)
S	Permit requirement set by Specific Use Regulations
—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT						Specific Use Regulations
	RR	RS	RL	RM	RH	RVH	
RESIDENTIAL USES							
Condominium conversion - 3 units maximum per parcel	—	—	—	P	—	—	
Home occupation	P	P	P	P	P	P	18.42.080
Mobile home park	UP	UP	UP	UP	UP	UP	18.42.110
Mobile/manufactured home	P	P	P	P	P	P	18.42.110
Multi-family housing, 2 or 3 units	—	—	—	P	P	P	18.42.120
Multi-family housing, 4 or more units	—	—	—	UP	UP	P	18.42.120
Organizational house (sorority, monastery, etc.)	—	—	—	UP	UP	UP	
Residential accessory use or structure	P	P	P	P	P	P	18.42.160
Residential care facility for the elderly (RCFE)	—	—	—	UP	UP	UP	
Residential care, 6 or fewer clients, in a single-family dwelling	P	P	P	P	P	P	
Residential care, 7 or more clients	—	—	—	UP	UP	UP	
Rooming or boarding, 3 or more persons	—	—	—	MUP	MUP	MUP	
Second units	P	P	P	P	P	P	18.42.170
Single-family dwelling	P	P	P	P	P	P	
RETAIL TRADE							
Accessory retail and services	—	—	—	P	P	P	18.42.020
Artisan shop	—	—	—	UP	—	—	
Neighborhood market	—	—	UP	UP	UP	UP	18.21.060
Restaurant, café, coffee shop	—	—	UP	UP	UP	UP	18.21.060

Key to Zoning District Symbols

RR	Rural Residential	RM	Medium Density Residential
RS	Suburban Residential	RH	High Density Residential
RL	Low Density Residential	RVH	Very High Density Residential

Notes:

(1) See Article 10 for land use definitions.

TABLE 2-1
Allowed Land Uses and Permit Requirements for Residential Zoning Districts

P	Permitted Use, Zoning Clearance required
MUP	Minor Use Permit required (see Section 18.71.060)
UP	Use Permit required (see Section 18.71.060)
S	Permit requirement set by Specific Use Regulations
—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT						Specific Use Regulations
	RR	RS	RL	RM	RH	RVH	
SERVICES - BUSINESS & PROFESSIONAL							
Medical services - Clinic, lab, urgent care	—	—	—	UP	UP	UP	
Medical services - Doctor office	—	—	—	—	—	P	18.21.060
Medical services - Extended care	—	—	—	UP	UP	UP	
Medical services - Hospital	—	—	—	UP	UP	UP	
Office - Accessory	P	P	P	P	P	P	
Office - Professional or administrative	—	—	—	—	—	UP	18.21.060
SERVICES							
Adult day care - 6 or fewer clients	—	—	—	—	—	—	
Adult day care - 7 or more clients	—	—	—	—	—	—	
Child day care - Small family day care home	P	P	P	P	P	P	
Child day care - Large family day care home	MUP	MUP	MUP	MUP	MUP	MUP	18.42.060
Child day care - Day care center	—	—	—	MUP	MUP	MUP	18.42.060
Lodging - Bed and breakfast inn (B&B)	—	—	UP(2)	—	—	—	18.42.050
Mortuary, funeral home (not including cremation)	—	—	—	—	—	UP	
Personal services	—	—	UP	UP	UP	UP	18.21.060
Public safety facilities	UP	UP	UP	UP	UP	UP	
TRANSPORTATION, COMMUNICATIONS & INFRASTRUCTURE							
Pipelines, transmission lines	S	S	S	S	S	S	18.42.144
Utility facility	UP	UP	UP	UP	UP	UP	
Utility infrastructure	P	P	P	P	P	P	

Key to Zoning District Symbols

RR	Rural Residential	RM	Medium Density Residential
RS	Suburban Residential	RH	High Density Residential
RL	Low Density Residential	RVH	Very High Density Residential

Notes:

(1) See Article 10 for land use definitions.

(2) In the RL zone, these are limited to those **legally** existing on the effective date of this Development Code. See Chapter 18.90 (Nonconforming Uses, Structures, and Parcels).

18.21.040 - Residential District Subdivision Standards

A. Each subdivision shall comply with the minimum parcel size requirements shown in Table 2-2 for the applicable zoning district.

B. The minimum parcel size requirements for a specific subdivision are determined by the review authority as part of subdivision approval. The review authority may require one or more parcels within a specific subdivision to be larger than the minimums required by this table based on potential environmental impacts, the physical characteristics of the site or surrounding parcels, and/or other factors.

C. A condominium or other common interest project may be subdivided with smaller parcels for ownership purposes, with the minimum lot area determined through subdivision review, provided that the overall development site complies with the minimum parcel size, and the total number of any dwellings complies with the maximum density for the applicable zone.

TABLE 2-2 - MINIMUM PARCEL SIZE STANDARDS

Zoning District	Minimum Parcel Size			
	Minimum Area	Minimum Width	Minimum Depth	Maximum Depth
RR-1 through RR-5	As shown by the numerical suffix to the RR symbol on the Zoning Map, with the number in the suffix indicating the minimum lot area in acres.	200 ft, or more as determined by the review authority for a parcel larger than 3 acres; 100 ft for a parcel smaller than 3 acres.	200 ft	N.A.
RS	40,000 sf	100 ft	200 ft	N.A.
RS-15	15,000 sf	100 ft	100 ft	N.A.
RL	6,000 sf, but no more than 6 parcels per net acre	50 ft	100 ft	3 times width
RM	6,000 sf, but no more than 12 parcels per net acre	50 ft	75 ft	3 times width
RH	Determined by the review authority during the subdivision process, consistent with the General Plan			
RVH	Determined by the review authority during the subdivision process, consistent with the General Plan			

18.21.050 - Residential District Site Planning and Building Standards

Subdivisions, new land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and established in compliance with the requirements in Tables 2-4 and 2-5, in addition to the applicable standards (e.g., landscaping, parking and loading, etc.) in Article 3 **and all other applicable policies and standards of the Local Coastal Program**.

TABLE 2-4 - RR, RS, AND RL DISTRICT DEVELOPMENT STANDARDS

Development Feature	Requirement by Zoning District		
	RR Rural Residential	**RS Suburban Residential**	**RL Low Density Residential**
Density	*Maximum number of dwelling units allowed on a single parcel.*		
	1 dwelling unit per parcel, plus one second unit where allowed by 18.42.170.		
Setbacks	*Minimum setbacks required. See Section 18.30.100 for exceptions, reductions, and encroachments. See Chapter 18.42 for setback requirements applicable to a specific land use.*		
Front	25 ft		20 ft, but no closer than 25 ft to the street right-of-way or the edge of pavement, whichever is closer
Side - Interior (each)	20 ft	10 ft	5 ft
Side - Street side	Same as front setback		10 ft
Rear	20 ft		10 ft
Garage	5 ft back from street-facing facade of primary structure		
Accessory structures	See 18.42.030 (Agricultural Accessory Structures) and 18.42.160 (Residential Accessory Structures)		
Site coverage	*Maximum percentage of the total lot area that may be covered by structures and pavement.*		
Maximum coverage	10,000 sf	25%	40%
Additional coverage	The maximum coverage above may be increased by 10% with Minor Use Permit approval, with the review and approval of a drainage plan by the City Engineer.		
Floor area ratio (FAR)	*Maximum floor area ratio for non-residential structures.*		
Maximum FAR	N.A.		0.40
Height limit	*Maximum allowable height of structures. See Section 18.30.060 for height measurement requirements, and height limit exceptions.*		
Maximum height	28 ft		
Fencing	See Section 18.30.050 (Fences, Walls, and Screening)		
Landscaping	See Chapter 18.34 (Landscaping Standards)		
Parking	See Chapter 18.36 (Parking and Loading)		
Signs	See Chapter 18.38 (Signs)		

TABLE 2-5 - RM, RH, AND RVH DISTRICT DEVELOPMENT STANDARDS

Development Feature	Requirement by Zoning District		
	RM Medium Density Residential	**RH High Density Residential**	**RVH Very High Density Residential**
Density	*Minimum and maximum number of dwelling units allowed on a single parcel.*		
Minimum and max.	6 to 12 units per acre	10 to 15 units per acre (1)	12 to 24 units per acre (1)
Setbacks	*Minimum setbacks required. See Section 18.30.100 for exceptions, reductions, and encroachments. See Chapter 18.42 for setback requirements applicable to a specific land use.*		
Front	20 ft, but no closer than 25 ft to a City street		
Side - Interior (each)	5 ft	5-ft; except 10 ft for single-story and 20 ft for multi-story buildings of 3 or more units on a site abutting an RS or RL zone.	
Side - Street side	10 ft		
Rear	10 ft	10 ft	20 ft abutting an RS or RL zone, 10 ft elsewhere.
Garage	5 ft back from street-facing facade of primary structure		
Accessory structures	See 18.42.030 (Agricultural Accessory Structures) and 18.42.160 (Residential Accessory Structures)		
Site coverage	*Maximum percentage of the total lot area that may be covered by structures and pavement.*		
Maximum coverage	50%	~~Determined by Commission~~ **An additional 10% of lot area may be covered with Minor Use Permit approval, with the review and approval of a drainage plan by the City Engineer. [City Requested MOD]**	N.A.
Additional coverage	An additional 10% of lot area may be covered with Minor Use Permit approval, with the review and approval of a drainage plan by the City Engineer.		
Floor area ratio (FAR)	*Maximum floor area ratio for non-residential structures.*		
Maximum FAR	0.40		
Height limit	*Maximum allowable height of structures. See Section 18.30.060 for height measurement requirements, and height limit exceptions.*		
Maximum height	35 ft	35 ft	45 ft
Fencing	See Section 18.30.050 (Fences, Walls, and Screening)		
Landscaping	See Chapter 18.34 (Landscaping Standards)		
Parking	See Chapter 18.36 (Parking and Loading)		
Signs	See Chapter 18.38 (Signs)		

Notes:

(1) A proposed residential project shall not be proposed at less than the minimum density provided for the applicable zoning district.

18.21.060 - Commercial Uses in Residential Zoning Districts

A. **Applicability.** The standards in this Section apply to ~~agricultural, resource, and open space uses~~, retail trade, and business and professional service uses identified by Section 18.21.020, Table 2-1, as allowable within a residential zoning district and subject to the requirements of this Section.

B. **Retail uses.** A neighborhood market, restaurant, café, or coffee shop shall comply with the following standards:

1. **Site planning.** Each proposed site shall be planned to provide pedestrian orientation and the buffering of on-site non-residential activities from adjacent residential development. No parking shall be located between buildings and a public street.

2. **Limitation on floor area.** No individual use shall exceed a total floor area of 10,000 square feet.

3. **Hours of operation.** A commercial use that is subject to this Section shall be open for business only during the hours from 7:00 a.m. to 8:00 p.m., unless other hours are specifically authorized by the Use Permit approval for the project.

C. **Business and professional services.** A doctor's office, or professional or administrative office may be approved in a residential zoning district only on a site that is adjacent to, or separated only by a street or alley from, a commercial or industrial zoning district.

CHAPTER 18.22 - COMMERCIAL ZONING DISTRICTS

Sections:

18.22.010 - Purpose
18.22.020 - Purposes of Commercial Zoning Districts
18.22.030 - Commercial District Land Uses and Permit Requirements
18.22.040 - Commercial District Subdivision Standards
18.22.050 - Commercial District Site Planning and Building Standards
18.22.060 - CBD Frontage and Facade Standards
18.22.070 - Commercial Design Guidelines

18.22.010 - Purpose

This Chapter lists the land uses that may be allowed within the commercial zoning districts established by Section 18.14.020 (Zoning Map and Zoning Districts), determines the type of planning permit/approval required for each use, and provides basic standards for site layout and building size.

18.22.020 - Purposes of Commercial Zoning Districts

The purposes of the individual commercial zoning districts and the manner in which they are applied are as follows.

A. **CN (Neighborhood Commercial) zoning district.** The CN zoning district is applied to areas of the City that are appropriate for small-scale facilities providing convenience shopping and services for adjacent residential neighborhoods. The maximum allowable residential density within the CN district for the residential component of a mixed use project is 12 dwelling units per acre; the maximum floor area ratio (FAR) is 0.40. The CN zoning district implements and is consistent with the **CN** ~~C1~~ land use designation of the General Plan.

B. **CO (Office Commercial) zoning district.** The CO zoning district is applied to areas of the City that are intended to serve the office and institutional needs of the community that cannot be accommodated within the CBD zoning district. Other related and office-supporting uses may also be allowed. The maximum allowable residential density within the CO district for either the residential component of a mixed use project or multi-family dwellings as a primary use is 24 dwelling units per acre; the maximum floor area ratio (FAR) is 0.40. The CO zoning district implements and is consistent with the **CO** ~~C4~~ land use designation of the General Plan.

C. **CBD (Central Business District) zoning district.** The CBD zoning district is applied to the core of the downtown which is the civic, cultural, and commercial center of the City. The CBD zone is intended to accommodate retail stores, government and professional offices, theaters, and other similar and related uses in the context of pedestrian oriented development. The maximum allowable residential density within the CBD zone for the residential component of a mixed use project is 40 dwelling units per acre; the maximum floor area ratio (FAR) is 2.0. The CBD zoning district implements and is consistent with the CBD land use designation of the General Plan.

D. **CG (General Commercial) zoning district.** The CG zoning district is applied to areas of the City that are appropriate for less compact and intensive commercial uses than those accommodated within the CBD zone. Allowable land uses are typically more auto-oriented than pedestrian oriented, and may include automotive and service-related uses, a wide range of retail stores, including those selling large products (appliances, home furnishings, building materials, etc.) The maximum allowable residential density within the CG district for the residential component of a mixed use project is 24 dwelling units per acre; the maximum floor area ratio (FAR) is 0.40. The CG zoning district implements and is consistent with the **CG** ~~C2~~ land use designation of the General Plan.

E. **CH (Highway and Visitor Serving) zoning district.** The CH zoning district is applied to sites along Highway 1 and arterials at the entry points to the community. Allowable land uses include lodging, restaurants, and retail stores. The maximum allowable residential density within the CH district for the residential component of a mixed use project is 24 dwelling units per acre; the maximum floor area ratio (FAR) is 0.40. The CH zoning district implements and is consistent with the **CH** ~~C3~~ land use designation of the General Plan.

18.22.030 - Commercial District Land Uses and Permit Requirements

A. **General permit requirements.** Table 2-6 identifies the uses of land allowed by this Development Code in each Commercial zoning district, and the planning permit required to establish each use, in compliance with Section 18.20.030 (Allowable Land Uses and Planning Permit Requirements). **A Coastal Development Permit shall be required for all development, including a change in land use in compliance with Secton 18.71.040, and such CDP shall be fully consistent with all applicable provisions of the certified LCP. A land use may also require a Design Review approval (Section 18.71.050), a Building Permit, and/or other permit required by the Municipal Code.**

B. **Requirements for certain specific land uses.** Where the last column in Table 2-6 ("Specific Use Regulations") includes a section number, the referenced section may affect whether the use requires a Zoning Clearance, Minor Use Permit, or Use Permit, and/or may establish other requirements and standards applicable to the use.

C. **Findings for Use Permit or Minor Use Permit approval.** The approval of a Use Permit or Minor Use Permit for a project within a commercial district shall require that the review authority first make the following findings for the zoning district applicable to the site, in addition to the findings required by Section 18.71.060 (Use Permit and Minor Use Permit).

1. **CN (Neighborhood Commercial) district.** The use is designed and intended to serve the local neighborhood and not a broader service area, and is not of a size as to require a clientele larger than the neighborhood market area.

2. **CO (Office Commercial) district.** The use acts to support primary uses in the zone, or clients or visitors of allowable permitted uses.

3. **CBD (Central Business District) district.** The use complements the intense, pedestrian and regionally oriented shopping areas of the CBD, and will not detract physically from the basically pedestrian nature of the CBD.

4. **CG (General Commercial) district.**

   a. The use is generally oriented to clients arriving by auto rather than pedestrians;
   b. The uses generally require larger display and/or storage areas; and
   c. The use is not dependent on heavy customer traffic per square foot.

5. **CH (Highway and Visitor Commercial) district.**

   a. Secondary uses oriented to local clientele may be permitted where the primary use of a site is oriented to or serves visitor, regional, or transient traffic;

   b. Secondary uses may be allowed where primary uses are precluded because of environmental concerns or other site specific problems; and

   c. The use is generally vehicular-oriented unless part of a larger visitor-oriented complex.

TABLE 2-6
Allowed Land Uses and Permit Requirements for Commercial Zoning Districts

P	Permitted Use, Zoning Clearance required
MUP	Minor Use Permit required (see Section 18.71.060)
UP	Use Permit required (see Section 18.71.060)
S	Permit requirement set by Specific Use Regulations
—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
AGRICULTURAL, RESOURCE & OPEN SPACE USES						
Crop production, horticulture, orchard, vineyard	P	P	P	P	P	
INDUSTRY, MANUFACTURING & PROCESSING, WHOLESALING						
Laboratory - Analysis, research and development, testing	—	—	—	P	—	
Printing and publishing	—	—	P(2)	P	—	
Recycling - Reverse vending machine	P	P	P	P	P	
Recycling - Small collection facility	P	P	P	P	P	18.42.150
Recycling - Large collection facility	—	—	—	UP	—	18.42.150
Recycling - Light processing	—	—	—	UP	—	

Key to Zoning District Symbols

CN	Neighborhood Commercial	CG	General Commercial
CO	Office Commercial	CH	Highway and Visitor Commercial
CBD	Central Business District		

Notes:

(1) See Article 10 for land use definitions.

(2) Use allowed only on second or upper floors, in compliance with Section 18.22.060.B (Limitation on Location of Allowable Uses).

TABLE 2-6 **Allowed Land Uses and Permit Requirements for Commercial Zoning Districts**	P MUP UP S —	Permitted Use, Zoning Clearance required Minor Use Permit required (see Section 18.71.060) Use Permit required (see Section 18.71.060) Permit requirement set by Specific Use Regulations Use not allowed				
	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
LAND USE (1)	CN	CO	CBD	CG	CH	
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES						
Campground, recreational vehicle (RV) park	—	—	—	—	UP	
Commercial recreation facility - Indoor	—	—	UP	P	P	
Commercial recreation facility - Outdoor	—	—	—	UP	UP	
Conference/convention facility	—	—	UP	UP	UP	
Health/fitness facility	—	UP	UP	P	UP	
Library, museum, art gallery	—	—	P	P	P	
Meeting facility, public or private	UP	UP	UP	UP	UP	
Park, playground	P	P	P	P	P	
School - Specialized education/training	—	UP	UP	UP	—	
Sports and entertainment assembly	—	—	—	UP	UP	
Studio - Art, dance, martial arts, music, etc.	—	UP	P	P	P	
Theater	—	—	P	P	P	
RESIDENTIAL USES						
Emergency/transitional shelter	—	—	—	P	—	
Home occupation	P	P	P	P	P	18.42.080
Live/work unit	MUP	MUP	MUP	MUP	—	18.42.090
Multi-family dwellings	P	UP	UP	UP	UP	18.42.120
Residential care facility for the elderly (RCFE)	—	UP	UP	UP	—	
Residential care facility, 7 or more clients	—	UP	UP	UP	—	
Residential component mixed use project	P	UP	P(2)	UP	UP	18.42.100

Key to Zoning District Symbols

CN	Neighborhood Commercial	CG	General Commercial
CO	Office Commercial	CH	Highway and Visitor Commercial
CBD	Central Business District		

Notes:

(1) See Article 10 for land use definitions.

(2) Use allowed only on second or upper floors, in compliance with Section 18.22.060.B (Limitation on Location of Allowable Uses).

TABLE 2-6 **Allowed Land Uses and Permit Requirements for Commercial Zoning Districts**	P MUP UP S —	Permitted Use, Zoning Clearance required Minor Use Permit required (see Section 18.71.060) Use Permit required (see Section 18.71.060) Permit requirement set by Specific Use Regulations Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
RETAIL TRADE						
Art, antique, and collectables stores	—	—	P	P	P	
Artisan shop	—	—	P	P	P	
Auto and vehicle sales and rental	—	—	—	P	P	
Auto parts sales with no installation services	—	—	—	P	P	
Bar/tavern	—	—	UP	P	P	
Big box retail	—	—	UP	UP	UP	
Building and landscape materials sales - Indoor	—	—	—	P	—	
Building and landscape materials sales - Outdoor	—	—	—	UP	—	18.42.130
Construction and heavy equipment sales and rental	—	—	—	UP	UP	18.42.130
Convenience or liquor store	UP	—	P	P	P	
Drive-through retail	—	—	UP	UP	UP	18.42.070
Farm supply and feed store	—	—	—	P	—	
Fuel dealer (propane for home and farm use, etc.)	—	—	—	UP	—	
Furniture, furnishings and appliance store	—	—	P	P	—	
General retail - 5,000 sf or larger	—	—	P	P	P	
General retail - Less than 5,000 sf	P	—	P	P	P	
Groceries, specialty foods	P	—	P	P	P	
Mobile home, boat, or RV sales	—	—	—	UP	UP	
Night club	—	—	UP	UP	UP	
Office supporting retail	P	P	P	P	P	
Outdoor retail sales and activities	—	—	P	P	P	18.42.130
Restaurant, café, coffee shop	UP	P	P	P	P	[cross ref WQ]
Second hand store	—	—	—	P	P	
Service station	—	—	—	UP	UP	18.42.180
Shopping center	—	—	—	UP	UP	

Key to Zoning District Symbols

CN	Neighborhood Commercial	CG	General Commercial
CO	Office Commercial	CH	Highway and Visitor Commercial
CBD	Central Business District		

Notes:

(1) See Article 10 for land use definitions.

TABLE 2-6
Allowed Land Uses and Permit Requirements for Commercial Zoning Districts

P	Permitted Use, Zoning Clearance required
MUP	Minor Use Permit required (see Section 18.71.060)
UP	Use Permit required (see Section 18.71.060)
S	Permit requirement set by Specific Use Regulations
—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL						
ATM	P	P	P	P	P	
Bank, financial services	UP	P	P	P	P	
Business support service	—	P	P	P	P	
Medical services - Doctor office	P	P	P	P	UP	
Medical services - Clinic, lab, urgent care	—	P	P	P	—	
Medical services - Hospital	—	UP	—	UP	UP	
Office - Accessory	P	P	P	P	P	
Office - Business/service	—	P	P	P	P	
Office - Processing	—	P	P(2)	P	—	
Office - Professional/administrative	—	P	P	P	P	
SERVICES - GENERAL						
Adult day care	P	P	P	P	—	
Catering service	—	P	—	P	—	
Child day care center	UP	UP	UP	UP	—	
Drive-through service	—	—	UP	UP	UP	18.42.070
Equipment rental	—	—	UP	P	UP	
Kennel, animal boarding	—	—	—	UP	—	
Lodging - Bed & breakfast inn (B&B)	—	—	UP	UP	P	18.42.050
Lodging - Hotel or motel	—	—	UP	UP	UP	
Maintenance service - Client site services	—	—	—	P	—	
Mortuary, funeral home	—	—	—	P	—	
Personal services	P	P	P	P	UP	
Personal services - Restricted	—	—	UP	UP	—	
Public safety facility	—	P	P	P	P	
Repair service - Equipment, large appliances, etc.	—	—	—	P	—	
Social service organization	—	P	P	P	—	
Vehicle services - Major repair/body work	—	—	—	UP	UP	
Vehicle services - Minor maintenance/repair	—	—	—	P	P	
Veterinary clinic, animal hospital	—	P	—	P	P	

Key to Zoning District Symbols

CN	Neighborhood Commercial	CG	General Commercial
CO	Office Commercial	CH	Highway and Visitor Commercial
CBD	Central Business District		

Notes:

(1) See Article 10 for land use definitions.

(2) Use allowed only on second or upper floors, in compliance with Section 18.22.060.B (Limitation on Location of Allowable Uses).

TABLE 2-6 **Allowed Land Uses and Permit Requirements for Commercial Zoning Districts**	P MUP UP S —	Permitted Use, Zoning Clearance required Minor Use Permit required (see Section 18.71.060) Use Permit required (see Section 18.71.060) Permit requirement set by Specific Use Regulations Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
TRANSPORTATION, COMMUNICATIONS & INFRASTRUCTURE						
Ambulance, taxi, or limousine dispatch facility	—	UP	—	UP	UP	
Broadcasting studio	—	P	P	P	—	
Parking facility, public or commercial	P	P	P	P	P	
Pipelines, transmission lines	S	S	S	S	S	18.42.144
Telecommunications facility	S	S	S	S	S	18.44
Transit station or terminal	UP	UP	UP	UP	UP	
Utility facility	P	P	P	P	P	
Vehicle storage	—	—	—	UP	UP	

Key to Zoning District Symbols

CN	Neighborhood Commercial	CG	General Commercial
CO	Office Commercial	CH	Highway and Visitor Commercial
CBD	Central Business District		

Notes:

(1) See Article 10 for land use definitions.

18.22.040 - Commercial District Subdivision Standards

A. Each subdivision shall comply with the minimum parcel size requirements shown in Table 2-7 for the applicable zoning district.

B. The minimum parcel size requirements for a specific subdivision are determined by the review authority as part of subdivision approval. The review authority may require one or more parcels within a specific subdivision to be larger than the minimums required by this table based on potential environmental impacts, the physical characteristics of the site or surrounding parcels, and/or other factors.

C. A condominium or other common interest project may be subdivided with smaller parcels for ownership purposes, with the minimum lot area determined through subdivision review, provided that the overall development site complies with the minimum parcel size, and the total number of any allowed dwellings complies with the maximum density for the applicable zone.

TABLE 2-7 - MINIMUM PARCEL SIZE STANDARDS

Zoning District	Minimum Parcel Size			
	Minimum Area	Minimum Width	Minimum Depth	Maximum Depth
CN	2,000 sf	25 ft	N.A.	3 times width; except that lots less than 50 ft in width may be 150 ft in depth if they have both fronting street and rear alley frontages.
CO	6,000 sf	50 ft	N.A.	3 times width
CBD	2,000 sf	20 ft	N.A.	3 times width; except that lots less than 50 ft in width may be 150 ft in depth if they have both fronting street and rear alley frontages.
CG	5,000 sf	50 ft	N.A.	3 times width
CH	6,000 sf	50 ft	N.A.	3 times width

18.22.050 - Commercial District Site Planning and Building Standards

A. **General standards.** Subdivisions, new land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and/or established in compliance with the requirements in Tables 2-8 and 2-9 in addition to the applicable development standards (e.g., landscaping, parking and loading, etc.) in Article 3 **and all other applicable policies and standards of the Local Coastal Program**.

TABLE 2-8 - CN, CO, AND CBD DISTRICT DEVELOPMENT STANDARDS

Development Feature	Requirement by Zoning District		
	CN Neighborhood Commercial	**CO Office Commercial**	**CBD Central Business District**
Residential density	*Maximum number of dwelling units allowed in a project. The actual number of units allowed will be determined by the City through subdivision or planning permit approval, as applicable.*		
Maximum density	24 units per acre	24 units per acre	40 units per acre
Setbacks	*Minimum and, where noted, maximum setbacks required for primary structures. See Section 18.30.100 for exceptions to these requirements.*		
Front	Same as the front setback for an R zone on the same block; 10 ft elsewhere.	20 ft for buildings 20 ft or more in height; 15 ft for other buildings	None allowed - Building facades shall abut the back of the public sidewalk, except as provided in 18.22.060.
Side - Interior (each)	Same as the front setback required for an R zone abutting the side property line; none required elsewhere.	10 ft; 15 ft adjacent to an abutting R zone.	None required
Side - Street side	None required	Same as front setback	None required
Rear	15 ft; 5 ft adjacent to an alley.	10 ft; 15 ft adjacent to an abutting R zone; 5 ft adjacent to an alley.	15 ft for a building 12 ft or more in height on a site abutting an R zone; 5 ft adjacent to an alley; none required elsewhere.
Floor area ratio (FAR)	*Maximum floor area ratio allowed. May be increased with Use Permit approval to accommodate housing units and/or live-work units up to the maximum density allowed in the zone.*		
	0.40	0.40	2.00
Site coverage	*Maximum percentage of the total lot area that may be covered by structures and pavement.*		
Maximum coverage	No limitation		
Height limit	*Maximum allowable height of structures. See Section 18.30.060 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions.*		
Maximum height	25 ft	25 ft; 35 ft with Use Permit approval.	35 ft and 3 stories; 45 ft and 3 stories with Use Permit approval, except west of Highway 1.
Fencing	See Section 18.30.050 (Fences, Walls, and Screening)		
Landscaping	See Chapter 18.34 (Landscaping Standards)		
Parking	See Chapter 18.36 (Parking and Loading)		
Signs	See Chapter 18.38 (Signs)		

TABLE 2-9 - CG AND CH DISTRICT DEVELOPMENT STANDARDS

Development Feature	Requirement by Zoning District	
	CG General Commercial	**CH Highway and Visitor Commercial**
Residential density	*Maximum number of dwelling units allowed in a project. The actual number of units allowed will be determined by the City through subdivision or planning permit approval, as applicable.*	
Maximum density	24 units per acre	
Setbacks	*Minimum and, where noted, maximum setbacks required for primary structures. See Section 18.30.100 for exceptions to these requirements.*	
Front	10 ft on an arterial street; same as the front setback for an R zone on the same block; none required elsewhere.	15 ft on an arterial street; same as the front setback for an R zone on the same block; 5 ft required elsewhere.
Side - Interior (each)	Same as the front setback required for an R zone abutting the side property line; none required elsewhere.	
Side - Street side	Same as front setback.	
Rear	5 ft adjacent to an alley; 15 ft adjacent to an abutting residential zone; none required elsewhere.	10 ft adjacent to an alley; 15 ft adjacent to residential zone; 30 ft from the Haul Road; none required elsewhere.
Floor area ratio (FAR)	*Maximum floor area ratio allowed. May be increased with Use Permit approval to accommodate housing units and/or live-work units up to the maximum density allowed in the zone.*	
	0.40	
Maximum floor area	*Maximum floor area allowed for commercial buildings in the locations noted.*	
	a. Between the Noyo River and Pudding Creek bridges - 50,000 sf. b. East of Highway 1 and north of Pudding Creek bridge, and south of the Noyo River bridge - ~~30,000~~ **40,000** sf. c. West of Highway 1 and north of Pudding Creek bridge and south of the Noyo River bridge - 15,000 sf.	
Height limit	*Maximum allowable height of structures. See Section 18.30.060 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions.*	
Maximum height	35 ft; 45 ft with Use Permit approval. 28 ft and 2 stories west of Highway 1.	35 ft. 28 ft and 2 stories west of Highway 1; 35 ft and 3 stories west of Highway 1 and north of Pudding Creek with Use Permit approval, provided that the building setback from the Haul Road shall be increased by 1 ft for each 1 ft of additional height over 28 ft.
Fencing	See Section 18.30.050 (Fences, Walls, and Screening)	
Landscaping	See Chapter 18.34 (Landscaping Standards)	
Parking	See Chapter 18.36 (Parking and Loading)	
Signs	See Chapter 18.38 (Signs)	

18.22.060 - CBD Frontage and Facade Standards

A. **Applicability.** The requirements of this Section apply to proposed development within the CBD zoning district. Each new non-residential structure, and all alterations to existing structures involving any change in the facade at the street frontage, shall comply with the following standards. The review authority may approve minor variations to these standards as deemed appropriate, provided that the review authority also first finds that the minor variation will still produce a new or altered building that complies with the intent of this Section.

B. **Limitation on the location of allowable land uses.** Each land use shall be located as follows.

1. The ground floor of each non-residential structure shall be limited to the uses allowed on the ground floor by Section 18.22.020, Table 2-6, to enhance the pedestrian orientation of downtown streets. Examples of the pedestrian-oriented uses allowed by Table 2-6 include walk-in uses such as restaurants, retail stores, health/fitness facilities, personal services, community service organizations, and similar uses. The review authority may modify the Table 2-6 limitations on ground floor uses when existing structures are re-occupied by different tenants or uses, or when this requirement is determined by the review authority to be infeasible because of excessive storefront vacancies.

2. Ground floor, street fronting business/service offices may be approved if the review authority first determines that the use will not impair the pedestrian character of the street, provided that:

   a. Parcels on the block occupied by office uses that are not pedestrian oriented constitute less than 50 percent of the block frontage;

   b. The remainder of the block is characterized primarily by retail and/or restaurant uses; and

   c. The facade design of the structure that accommodates the office contributes to the visual interest of the street and conspicuously expresses the nature of the use.

C. **Elevation of first floor.** At least 75 percent of the street fronting length of the first habitable floor of a nonresidential structure shall be located no more than two vertical feet above or below the sidewalk elevation at any point along the street property line.

D. **Pedestrian access.** The primary entrance of each ground floor use shall be recessed a minimum of three feet when accessed from the public right-of-way. Walk-up facilities and entries shall be recessed and provide adequate queuing space to avoid interruption of pedestrian flow.

E. **Formula design prohibited.** The architectural style and exterior finish materials of each proposed structure shall be designed based upon the architectural traditions of Fort Bragg and Mendocino County, and the architectural styles prevalent in the site vicinity. A building proposed with architectural features substantially similar to those found in other communities on buildings occupied by the same corporate or franchise entity that will occupy the proposed building shall not be approved.

CHAPTER 18.24 - INDUSTRIAL ZONING DISTRICTS

Sections:

18.24.010 - Purpose
18.24.020 - Purposes of Industrial Zoning Districts
18.24.030 - Industrial District Land Uses and Permit Requirements
18.24.040 - Industrial District Subdivision Standards
18.24.050 - Industrial District Site Planning and Building Standards
18.24.060 - HD (Harbor District) Zone Standards
18.24.070 - Industrial Design Guidelines

18.24.010 - Purpose

This Chapter lists the land uses that may be allowed within the industrial zoning districts established by Section 18.14.020 (Zoning Map and Zoning Districts), determines the type of planning permit/approval required for each use, and provides basic standards for site layout and building size.

18.24.020 - Purposes of Industrial Zoning Districts

The purposes of the individual industrial zoning districts and the manner in which they are applied are as follows.

A. **IL (Light Industrial) zoning district.** The IL zoning district is applied to areas of the City that are appropriate for a variety of commercial, manufacturing, wholesale and distribution, and industrial uses that do not generate significant customer traffic or high levels of noise, dust, odors, or other potential off-site nuisance characteristics. Allowable manufacturing uses and activities must be entirely within enclosed structures. The maximum floor area ratio (FAR) is 0.40. The IL zoning district implements and is consistent with the IL ~~LI~~ land use designation of the General Plan.

B. **IH (Heavy Industrial) zoning district.** The IH zoning district is applied to areas of the City that are appropriate for a range of heavy industrial including manufacturing, assembly and processing, the storage and distribution of raw materials, aggregate plants, and related industrial uses that are generally compatible with and require locations removed from residential and visitor serving uses. The maximum floor area ratio (FAR) is 0.40. The IH zoning district implements and is consistent with the IH ~~HI~~ land use designation of the General Plan.

C. **IT (Timber Resources Industrial) zoning district.** The IT zoning district is applied to areas appropriate for timber resource and forest products related manufacturing, including a variety of related industrial uses, as well as related support activities including railroad lines, truck shipping facilities, power generation, and related uses; and aquaculture. The maximum floor area ratio (FAR) is 0.40. The IT zoning district implements and is consistent with the IT ~~TRI~~ land use designation of the General Plan.

D. **HD (Harbor District) zoning district.** The HD zoning district is applied to the Noyo Harbor, to acknowledge and maintain its function as a commercial fishing center with a mix of commercial and industrial activities, that support harbor operations, and protect ocean-abutting parcels for coastal dependent and coastal related uses. Allowable uses may include aquaculture, boat sales, construction, and service, commercial fishing and charter operations, fish processing, gift shops, marine hardware, retail fish sales, and similar and compatible uses. The maximum area ratio (FAR) is 0.75. The HD zoning district implements and is consistent with the HD land use designation of the General Plan.

18.24.030 - Industrial District Land Uses and Permit Requirements

A. **General permit requirements.** Table 2-10 identifies the uses of land allowed by this Development Code in each industrial zoning district, and the planning permit required to establish each use, in compliance with Section 18.20.030 (Allowable Land Uses and Planning Permit Requirements). **A Coastal Development Permit shall be required for all development, including a change in land use in compliance with Secton 18.71.040, and such CDP shall be fully consistent with all applicable provisions of the certified LCP. A land use may also require a Design Review approval (Section 18.71.050), a Building Permit, and/or other permit required by the Municipal Code.**

B. **Requirements for certain specific land uses.** Where the last column in Table 2-10 ("Specific Use Regulations") includes a section number, the referenced section may affect whether the use requires a Zoning Clearance, Minor Use Permit, or Use Permit, and/or may establish other requirements and standards applicable to the use.

C. **IT zone additional permit requirements.** In addition to the planning permit requirements established by Table 2-10 for the IT (Timber Resource Industrial) zone, Use Permit approval shall be required for:

1. The construction of a new building;

2. The expansion of an existing building by 25 percent or more; and

3. A change in use of an existing building from one type of allowable industrial process or storage to a different type of use.

TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	P MUP UP S —	Permitted Use, Zoning Clearance required Minor Use Permit required (see Section 18.71.060) Use Permit required (see Section 18.71.060) Permit requirement set by Specific Use Regulations Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT				Specific Use Regulations
	IL	IH	IT	HD	
AGRICULTURAL, RESOURCE & OPEN SPACE USES					
Aquaculture	—	UP(3)	UP	UP	18.42.046
Crop production, horticulture, orchard, vineyard	P	P	P(4)	—	
INDUSTRY, MANUFACTURING & PROCESSING, WHOLESALING					
Agricultural product processing	—	P	—	—	
Artisan/craft product manufacturing	P(2)	—	—	—	
Boat and ship construction, repair, maintenance	—	P	—	P	
Construction contractor	P(2)	P(2)	—	—	
Fish processing	P(2)	P	—	P	
Laboratory - Medical, analytical, research & development	P(2)	P	—	—	
Laundry, dry cleaning plant	P	P	—	—	
Lumber and wood product manufacturing		UP	P(4)	—	
Manufacturing/processing - Heavy	—	UP	—	—	
Manufacturing/processing - Light	P(2)	P	—	—	
Manufacturing/processing - Medium intensity	—	P(2)	—	—	
Media production	P	P	—	—	
Petroleum product storage and distribution	UP	P	—	—	
Printing and publishing	P	P	—	—	
Recycling - Heavy processing	UP	UP	—	—	18.42.150
Recycling - Large collection facility	UP	UP	—	—	18.42.150
Recycling - Light processing	UP	UP	—	—	18.42.150
Recycling - Reverse vending machine	P	P	—	—	18.42.150
Recycling - Scrap and dismantling yards	—	UP	—	—	
Recycling - Small collection facility	P	P	—	P	18.42.150
Storage - Cold storage facility, ice plant	—	UP	—	UP	
Storage - Outdoor	UP	UP	UP	UP	18.42.140
Storage - Personal storage facility (mini-storage)	P	P	—	—	
Storage - Warehousing	P(2)	P	—	—	
Wholesaling and distribution	P(2)	P	—	—	

Key to Zoning District Symbols

IL	Light Industrial	IT	Timber Resources Industrial
IH	Heavy Industrial	HD	Harbor District

Notes:

(1) See Article 10 for land use definitions.

(2) Use shall be entirely enclosed within a building, unless outdoor activities and/or storage are authorized by Use Permit.

(3) Use only allowed in Coastal Zone.

(4) See Section 18.24.030.C for additional permit requirements.

TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	P MUP UP S —	Permitted Use, Zoning Clearance required Minor Use Permit required (see Section 18.71.060) Use Permit required (see Section 18.71.060) Permit requirement set by Specific Use Regulations Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT				Specific Use Regulations
	IL	IH	IT	HD	
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES					
Adult entertainment business	S	S	—	—	18.40
Commercial recreation facility - Indoor	UP	—	—	—	
Commercial recreation facility - Outdoor	UP	UP	—	—	
Fishing pier	—	—	—	UP	
Health/fitness facility	UP	—	—	—	
Library, museum	—	—	—	UP	
Meeting facility, public or private	UP	—	—	—	
School - Specialized education/training	UP	UP	—	—	
Sports and entertainment assembly	—	UP	—	—	
RESIDENTIAL USES					
Caretaker quarters	—	MUP	—	MUP	
Live/work unit	UP	—	—	UP	18.42.090

Key to Zoning District Symbols

IL	Light Industrial	IT	Timber Resources Industrial
IH	Heavy Industrial	HD	Harbor District

Notes:

(1) See Article 10 for land use definitions.

(2) Use shall be entirely enclosed within a building, unless outdoor activities and/or storage are authorized by Use Permit.

(3) Use only allowed in Coastal Zone.

(4) See Section 18.24.030.C for additional permit requirements.

TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	P	Permitted Use, Zoning Clearance required
	MUP	Minor Use Permit required (see Section 18.71.060)
	UP	Use Permit required (see Section 18.71.060)
	S	Permit requirement set by Specific Use Regulations
	—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT				Specific Use Regulations
	IL	IH	IT	HD	
RETAIL TRADE					
Accessory retail or services	MUP	MUP	—	MUP	18.42.020
Bar/tavern	—	—	—	MUP	
Boat and ship sales	—	—	—	P	
Building and landscape materials sales - Indoor	P	P	—	—	
Building and landscape materials sales - Outdoor	UP	P	—	—	18.42.130
Construction and heavy equipment sales and rental	UP	P	—	—	18.42.130
Convenience store	—	—	—	MUP	
Farm supply and feed store	P(2)	P	—	—	
Fuel dealer (propane for home and farm use, etc.)	P	—	—	—	
Marine hardware and supplies sales	—	—	—	P	
Mobile home or RV sales	UP	UP	—	—	
Restaurant, café, coffee shop	—	—	—	MUP	
Retail sales accessory to wholesaling	MUP	MUP	—	—	
Service station	UP	UP	—	—	18.42.180
SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL					
ATM	—	—	—	P	
Business support service	P	—	—	—	
Office - Accessory	P	P	P(4)	P	
Office - Processing and corporate	P	P	—	—	

Key to Zoning District Symbols

IL	Light Industrial	IT	Timber Resources Industrial
IH	Heavy Industrial	HD	Harbor District

Notes:

(1) See Article 10 for land use definitions.

(2) Use shall be entirely enclosed within a building, unless outdoor activities and/or storage are authorized by Use Permit.

(3) Use only allowed in Coastal Zone.

(4) See Section 18.24.030.C for additional permit requirements.

TABLE 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning Districts	P	Permitted Use, Zoning Clearance required
	MUP	Minor Use Permit required (see Section 18.71.060)
	UP	Use Permit required (see Section 18.71.060)
	S	Permit requirement set by Specific Use Regulations
	—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT				Specific Use Regulations
	IL	IH	IT	HD	
SERVICES - GENERAL					
Accessory retail or services	MUP	MUP	—	—	18.42.020
Equipment rental	P(2)	P(2)	—	—	
Kennel, animal boarding	UP	UP	—	—	
Lodging - Hotel or motel	—	—	—	UP(5)	
Maintenance service - Client site services	P(2)	P	—	—	
Medical Marijuana Dispensary	UP	UP	—	—	FBMC 9.30 (Ord. 851 §1, 2005
Public safety facility	P	P	P(4)	P	
Repair service - Equipment, large appliances, etc.	P(2)	P	—	—	
Vehicle services - Major repair/body work	UP	UP	—	—	
Vehicle services - Minor maintenance/repair	P	P	—	—	
Veterinary clinic, animal hospital	P	P	—	—	
TRANSPORTATION, COMMUNICATIONS & INFRASTRUCTURE					
Ambulance, taxi, or limousine dispatch facility	P(2)	P	—	—	
Boat launching facility	—	—	—	P	
Broadcasting studio	P	—	—	—	
Electric power generation	—	—	UP	—	18.42.074
Freight terminal	P(2)	P	—	—	
Harbor and marina facilities	—	—	—	P	
Parking facility, public or commercial	—	—	—	MUP	
Pipeline or transmission line	S	S	S	S	18.42.144
Telecommunications facility	S	S	S	S	18.44
Transit station or terminal	UP	UP	UP	UP	
Utility facility	P	P	—	—	
Vehicle storage	UP	UP	—	—	

Key to Zoning District Symbols

IL	Light Industrial	IT	Timber Resources Industrial
IH	Heavy Industrial	HD	Harbor District

Notes:

(1) See Article 10 for land use definitions.

(2) Use shall be entirely enclosed within a building, unless outdoor activities and/or storage are authorized by Use Permit.

(3) Use only allowed in Coastal Zone.

(4) See Section 18.24.030.C for additional permit requirements.

(5) Allowed only on a parcel with no harbor basin water frontage, and/or with its buildable area over 25 feet above mean high tide.

18.24.040 - Industrial District Subdivision Standards

A. Each subdivision shall comply with the minimum parcel size requirements shown in Table 2-11 for the applicable zoning district.

B. The minimum parcel size requirements for a specific subdivision are determined by the review authority as part of subdivision approval. The review authority may require one or more parcels within a specific subdivision to be larger than the minimums required by this table based on potential environmental impacts, the physical characteristics of the site or surrounding parcels, and/or other factors.

C. An industrial condominium may be subdivided with smaller parcels for ownership purposes, with the minimum lot area determined through subdivision review, provided that the overall development site complies with the minimum parcel size.

TABLE 2-11 - MINIMUM PARCEL SIZE STANDARDS

Zoning District	Minimum Parcel Size			
	Minimum Area	Minimum Width	Minimum Depth	Maximum Depth
IL	5,000 sf	50 ft	100 ft	3 times width
IH	5,000 sf	50 ft	100 ft	3 times width
IT	5,000 sf	50 ft	100 ft	3 times width
HD	2,000 sf	25 ft	N.A.	3 times width, except that lots less than 50 ft wide may be 150 ft in depth.

18.24.050 - Industrial District Site Planning and Building Standards

Subdivisions, new land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and/or established in compliance with the requirements in Tables 2-12 and 2-13 in addition to the applicable development standards (e.g., landscaping, parking and loading, etc.) in Article 3.

TABLE 2-12 - IL AND IH DISTRICT DEVELOPMENT STANDARDS

Development Feature	Requirement by Zoning District	
	IL Light Industrial	**IH Heavy Industrial**
Residential density	*Maximum number of dwelling units allowed in a project. The actual number of units allowed will be determined by the City through subdivision or planning permit approval, as applicable.*	
Maximum density	15 live/work units per acre	1 caretaker unit per parcel
Setbacks	*Minimum and, where noted, maximum setbacks required for primary structures. See Section 18.30.100 for exceptions to these requirements.*	
Front	30 ft from Highway 1; 15 ft elsewhere.	
Side - Interior (each)	10 ft; except no setback **is required** ~~allowed~~ if the other side is 15 ft or more. 10 ft on any side abutting a C zone. 30 ft on any side abutting an R or OS zone, or a PD zone not specified for industrial uses.	
Side - Street side	Same as front setback.	
Rear	Abutting an alley, 10 ft within 30 ft of each side property line or driveway accessing the alley (see Figure 2-1); 30 ft if adjacent to an R zone; none required elsewhere.	
Floor area ratio (FAR)	*Maximum FAR allowed.*	
	0.40	
Height limit	*Maximum allowable height of structures. See Section 18.30.060 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions.*	
Maximum height	35 ft; 45 ft with Use Permit approval.	40 ft; 60 ft with Use Permit approval.
Fencing	See Section 18.30.050 (Fences, Walls, and Screening)	
Landscaping	See Chapter 18.34 (Landscaping Standards)	
Parking	See Chapter 18.36 (Parking and Loading)	
Signs	See Chapter 18.38 (Signs)	

TABLE 2-13 - IT AND HD DISTRICT DEVELOPMENT STANDARDS

Development Feature	Requirement by Zoning District	
	IT **Timber Resources Industrial**	**HD** **Harbor District**
Residential density	*Maximum number of dwelling units allowed in a project. The actual number of units allowed will be determined by the City through subdivision or planning permit approval, as applicable.*	
Maximum density	None allowed	1 caretaker unit per parcel
Setbacks	*Minimum and, where noted, maximum setbacks required for primary structures. See Section 18.30.100 for exceptions to these requirements.*	
Front	30 ft from Highway 1; 15 ft elsewhere.	None required
Side - Interior (each)	10 ft; except no setback allowed if the other side is 15 ft or more. 10 ft on any side abutting a C zone. 30 ft on any side abutting an R or OS zone, or a PD zone not specified for industrial uses.	10 ft abutting a different zone; none required elsewhere.
Side - Street side	Same as front setback.	
Rear	Abutting an alley, 10 ft within 30 ft of each side property line or driveway accessing the alley; none required elsewhere.	10 ft abutting a different zone; none required elsewhere.
Floor area ratio (FAR)	*Maximum FAR allowed.*	
	0.40	0.75
Height limit	*Maximum allowable height of structures. See Section 18.30.060 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions.*	
Maximum height	40 ft; 60 ft with Use Permit approval.	30 ft; 45 ft with Use Permit approval.
Fencing	See Section 18.30.050 (Fences, Walls, and Screening)	
Landscaping	See Chapter 18.34 (Landscaping Standards)	
Parking	See Chapter 18.36 (Parking and Loading)	
Signs	See Chapter 18.38 (Signs)	

18.24.060 - HD (Harbor District) Zone Standards

Each secondary use in the HD zone shall be subordinate to marine commercial and industrial uses and shall not be the primary use on a parcel abutting the water. In particular, bars, restaurants, convenience stores and other non-coastal dependent uses shall not occupy more than 25 percent of the gross area of any waterfront parcel and shall not occupy more than 50 percent of the gross area of any other parcel in the HD zone, except for areas with an elevation of 25 feet or more above mean high tide and physically separated from the basin area. For multiple-use projects, the coastal dependent portion (including its buildings, dock, landscaping, parking, etc.) shall occupy or be allotted at least 75 percent of the overall project area for waterfront properties and 50 percent of the area for other properties.

CHAPTER 18.26 - SPECIAL PURPOSE ZONING DISTRICTS

Sections:

18.26.010 - Purpose
18.26.020 - Purposes of Special Purpose Zoning Districts
18.26.030 - Special Purpose District Land Uses and Permit Requirements
18.26.040 - Special Purpose District General Development Standards

18.26.010 - Purpose

This Chapter lists the land uses that may be allowed within the special purpose zoning districts established by Section 18.14.020 (Zoning Map and Zoning Districts), determines the type of planning permit/approval required for each use, and provides basic standards for site layout and building size.

18.26.020 - Purposes of the Special Purpose Zoning Districts

The purposes of the individual special purpose zoning districts and the manner in which they are applied are as follows.

A. **OS (Open Space) zoning district.** The OS zoning district is applied to properties that are largely unimproved and used for the preservation of natural resources and habitats, passive outdoor recreation, scenic resources, and/or for the protection of public health and safety (e.g., preservation of floodplains). Allowable uses are limited to those that support maintenance and/or recreational uses. The maximum floor area ratio (FAR) is 0.10. The OS zoning district implements and is consistent with the OS land use designation of the General Plan.

B. **PR (Parks and Recreation) zoning district.** The PR zoning district is applied to the sites of public parks and recreational facilities. Allowable uses are limited to recreational uses, and the structures needed to support those uses, and facility and site maintenance. The maximum floor area ratio (FAR) is 0.25. The PR zoning district implements and is consistent with the PR land use designation of the General Plan.

C. **PF (Public Facility) zoning district.** The PF zoning district is applied to the sites of existing and proposed public buildings, utility facilities, water and wastewater treatment plants, and related easements. The maximum floor area ratio (FAR) is 0.75. The PF zoning district implements and is consistent with the PF land use designation of the General Plan.

18.26.030 - Special Purpose District Land Uses and Permit Requirements

A. **General permit requirements.** Table 2-14 identifies the uses of land allowed by this Development Code in each Special Purpose zoning district, and the planning permit required to establish each use, in compliance with Section 18.20.030 (Allowable Land Uses and Planning Permit Requirements). **A Coastal Development Permit shall be required for all development, including a change in land use in compliance with Secton 18.71.040, and such CDP shall be fully consistent with all applicable provisions of the certified LCP. A land use may also require a Design Review approval (Section 18.71.050), a Building Permit, and/or other permit required by the Municipal Code.**

B. **Requirements for certain specific land uses.** Where the last column in Table 2-14 ("Specific Use Regulations") includes a section number, the referenced section may affect whether the use requires a Zoning Clearance, Minor Use Permit, or Use Permit, and/or may establish other requirements and standards applicable to the use.

TABLE 2-14 Allowed Land Uses and Permit Requirements for Special Purpose Zoning Districts	P	Permitted Use, Zoning Clearance required
	MUP	Minor Use Permit required (see Section 18.71.060)
	UP	Use Permit required (see Section 18.71.060)
	S	Permit requirement set by Specific Use Regulations
	—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT			Specific Use Regulations
	OS	PR	PF	
AGRICULTURAL, RESOURCE & OPEN SPACE USES				
Animal keeping	S	S	S	18.42.040
Nature preserve	P	P	P	
Crop production, horticulture, orchard, vineyard	P	P	P	
INDUSTRY, MANUFACTURING & PROCESSING, WHOLESALING				
Recycling - Reverse vending machine	—	—	P	18.42.150
Recycling - Small collection facility	—	—	MUP	18.42.150
Storage - Warehouse	—	—	P	
Storage - Outdoor	—	—	UP	18.42.140
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES				
Equestrian facility	P	UP	—	
Health/fitness facility	—	UP	—	
Hiking/riding trail	P	P	P	
Library, museum	—	UP	UP	
Meeting facility, public or private	—	UP	UP	
Park, playground	—	P	P	
School - Elementary, middle, secondary	—	—	P	
School - Specialized education/training	—	—	P	
Sports and entertainment assembly	—	UP	UP	
Theater	—	UP	UP	
RESIDENTIAL USES				
Caretaker quarters	MUP	MUP	MUP	
Emergency/transitional shelter	—	—	UP	
Farm dwelling on a parcel of 10 acres or more	MUP	—	—	
Residential care facility for the elderly (RCFE)	—	—	UP	
Residential care facility, 7 or more clients	—	—	UP	

Key to Zoning District Symbols

OS	Open Space	PF	Public Facility
PR	Parks and Recreation		

Notes:

(1) See Article 10 for land use definitions.

TABLE 2-14 Allowed Land Uses and Permit Requirements for Special Purpose Zoning Districts	P	Permitted Use, Zoning Clearance required
	MUP	Minor Use Permit required (see Section 18.71.060)
	UP	Use Permit required (see Section 18.71.060)
	S	Permit requirement set by Specific Use Regulations
	—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT			Specific Use Regulations
	OS	PR	PF	
RETAIL TRADE				
Accessory retail or services	—	P	P	18.42.020
SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL				
Medical services - Clinic, urgent care	—	—	UP	
Medical services - Hospital	—	—	UP	
Office - Accessory	P	P	P	
Office - Government	—	—	P	
SERVICES - GENERAL				
Accessory retail or services	—	P	P	18.42.020
Adult day care	—	—	UP	
Child day care center	—	—	UP	
Public safety facility	—	—	P	
Social service organization	—	—	P	
TRANSPORTATION, COMMUNICATIONS & INFRASTRUCTURE				
Ambulance, taxi, or limousine dispatch facility	—	—	UP	
Parking facility, public or commercial	—	—	P	
Pipeline or transmission line	S	S	S	18.42.144
Telecommunications facility	S	S	S	18.44
Transit station or terminal	—	—	UP	
Utility facility	—	—	P	
Vehicle storage	—	—	UP	

Key to Zoning District Symbols

OS	Open Space	PF	Public Facility
PR	Parks and Recreation		

Notes:

(1) See Article 10 for land use definitions.

18.26.040 - Special Purpose District Subdivision Standards

The minimum area and dimensions for new parcels in the OS, PR, and PF zoning districts shall be determined by the City through the subdivision process.

18.26.050 - Special Purpose District Site Planning and Building Standards

Subdivisions, new land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and/or established in compliance with the requirements established by the City through the Use Permit process, capital improvements programming process, or leasing of public property, as applicable, in addition to the applicable development standards (e.g., landscaping, parking and loading, etc.) in Article 3 **and all other applicable policies and standards of the Local Coastal Program**.

~~CHAPTER 18.28 - COMBINING DISTRICTS~~

~~Sections:~~

~~18.28.010 - Purpose~~
~~18.28.020 - Applicability of Combining Districts~~
~~18.28.030 - Coastal Zone (CZ) Combining District~~

~~18.28.010 - Purpose~~

~~The provisions of this Chapter regulates development and new land uses in the combining zoning districts established by Section 18.14.020 (Zoning Map and Zoning Districts), and provide guidance for development within the Combining districts in the form of standards that apply to proposed development in addition to the standards and regulations of the primary zoning district, where important site, environmental, safety, compatibility, or design issues require particular attention in project planning.~~

~~18.28.020 - Applicability of Combining Districts~~

~~The provisions of this Chapter apply to proposed land uses and development in addition to all other applicable requirements of this Development Code. Any perceived conflict between the provisions of this Chapter and any other provision of this Development Code shall be resolved in compliance with Chapter 18.12 (Interpretation of Code Provisions).~~

~~A. **Mapping of Combining districts.** The applicability of any combining district to a specific site is shown by the combining Zoning Map symbol established by Section 18.14.020 (Zoning Map and Zoning Districts), being appended as a suffix to the symbol for the primary zoning district on the Zoning Map. The combining districts are applied to property through the rezoning process (Chapter 18.94).~~

~~B. **Allowed land uses, permit requirements, development standards.** Except as may be otherwise provided by this Chapter for a specific combining district:~~

~~1. Any land use normally allowed in the primary zoning district by this Article may be allowed within a combining district, subject to any additional requirements of the combining district;~~

~~2. Development and new land uses within a combining district shall obtain the zoning approvals required by this Article for the primary zoning district; and~~

~~3. Development and new land uses within a combining district shall comply with all applicable development standards of the primary zoning district, all other applicable provisions of this Development Code (e.g., Article 3 - Site Planning and Project Design Standards), and the City=s Design Guidelines to the extent determined by the review authority and/or specific provisions of the Design Guidelines.~~

~~18.28.030 - Coastal Zone (CZ) Combining District~~

~~A. **Purpose.** The CZ combining district identifies properties that are subject to the policies and standards of the Coastal Act, and the City's Local Coastal Program, including the standards of Article 5 (Resource Management), and the Coastal Development Permit requirements of Section 18.71.040.~~

~~B. **Applicability.** The CZ combining district is applied to the areas of the City located within the Coastal Zone established by the California Coastal Act of 1976, as amended.~~

~~C. **Coastal Zone boundary location.** Where uncertainty exists as to the exact location of the Coastal Zone Combining Zone boundary, the following rules shall apply:~~

~~1. When a portion of a building site lies within the Coastal Zone and any existing or proposed development is within the Coastal Zone, the entire building site shall be considered to be within the Coastal Zone.~~

~~2. Where a public or private street or highway parallels the Coastal Zone and lies partially within the Coastal Zone, the inland extent of the street or highway shall be considered to be within the Coastal Zone.~~

Article 3
Site Planning and Project Design Standards

ARTICLE 3

Site Planning and Project Design Standards

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CHAPTER 18.30 - STANDARDS FOR ALL DEVELOPMENT AND LAND USES

Sections:

18.30.010 - Purpose
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18.30.080 - Performance Standards
18.30.090 - Public Improvement Requirements
18.30.100 - Setback Requirements and Exceptions
18.30.110 - Solid Waste/Recyclable Materials Storage

18.30.010 - Purpose

This Chapter expands upon the zoning district development standards of Article 2 by addressing additional details of site planning, project design, and the operation of land uses. The intent of these standards is to ensure that proposed development is compatible with existing and future development on neighboring properties, and produces an environment of stable and desirable character, consistent with the General Plan, **Local Coastal Program,** and any applicable specific plan.

18.30.020 - Applicability

The requirements of this Chapter shall apply to all proposed development and new land uses, except as specified in Chapter 18.90 (Nonconforming Uses, Structures, and Parcels), and shall be considered in combination with the standards for the applicable zoning district in Article 2 (Zoning Districts and Allowable Land Uses) and those in Article 4 (Standards for Specific Land Uses). If there is a conflict, the standards in Article 4 shall control.

18.30.050 - Fences, Walls, and Screening

A. **Applicability.** The requirements of this Section apply to all fences and walls unless otherwise stated.

1. **Fences or wall in flood hazard area.** A fence or wall in an area subject to flooding identified on a Federal Flood Insurance Rate Map (FIRM) on file in the Department shall require a Building Permit, and shall comply with all requirements of the City Engineer in addition to the requirements of this Section.

2. **Exemptions.** These regulations do not apply to fences or walls required by regulations of a State or Federal agency, or by the City for reasons of public safety.

B. **Height limits.**

1. **General height limit.** Each fence, wall, and hedge shall comply with the height limits shown in Table 3-1.

TABLE 3-1 - MAXIMUM HEIGHT OF FENCES, WALLS, AND HEDGES

Location	Maximum Height
Within front or street side setback	**Open fence:** 6 ft (open fencing must be of a minimum 2-inch wire mesh or equivalent). **View-obscuring fence:** 42 inches (3.2 ft) within a traffic safety visibility area (see Section 18.30.060.E), 6 ft elsewhere. Trellises, arbors and similar entry features: not permitted within a traffic safety visibility area, 8 ft elsewhere (a height greater than 6 ft requires a Building Permit).
Within interior side or rear setback	6 ft ~~within the Coastal Zone, 8 ft with Minor Use Permit approval; 6 ft otherwise.~~
Outside of required setbacks	6 ft ~~within the Coastal Zone, 8 ft elsewhere (a height greater than 6 ft requires a Building Permit).~~

~~2. **Requirements for increased height.** Where Table 3-1 allows increased fence height outside of the Coastal Zone with Minor Use Permit approval, the approval shall be subject to the following requirements.~~

~~a. Each fence shall comply with the traffic safety visibility area requirements in Section 18.30.060.E (Height Limits and Exceptions - Height limits at street corners).~~

~~b. The review authority may require conditions to address aesthetic issues and neighborhood concerns.~~

C. **Measurement of fence and wall height.**

1. Fence height shall be measured as the vertical distance between the finished grade at the base of the fence and the top edge of the fence material.

2. The height of fencing atop a wall shall be measured from the base of the wall.

3. In cases where elevation of the finished grade within six feet of the base of the fence differs from one side of the fence to the other (as when a fence is placed at the top of a slope or on a retaining wall), the height shall be measured from the side with the lowest natural grade; except that a safety fence with a height of 48 inches shall be allowed in all cases. See Figure 3-1.

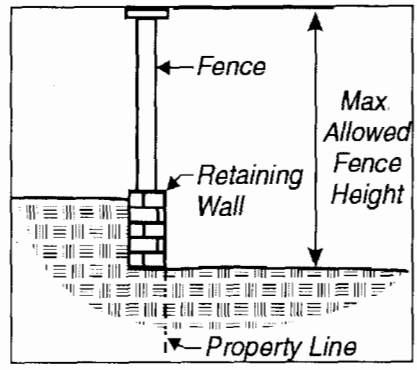

Figure 3-1 - Fence Height Measurement

D. **Specific fencing and wall requirements.**

1. **Fencing between different land uses.** Fencing between different land uses shall be provided in compliance with Subsection F. (Screening).

2. **Outdoor equipment, storage, and work areas.** Screening of nonresidential outdoor uses and equipment adjacent to a residential use shall be provided in compliance with Subsection F. (Screening).

3. **Retaining walls.** Any embankment to be retained that is over 48 inches in height shall be benched so that no individual retaining wall exceeds a height of 36 inches, and each bench is a minimum width of 36 inches.

4. **Swimming pools, spas, and similar features.** Swimming pools/spas and other similar water features shall be fenced in compliance with Uniform Building Code (UBC) requirements, regardless of the other requirements of this Section.

5. **Temporary fencing.** Temporary fencing may be necessary to protect archaeological or historic resources, trees, or other similar sensitive features during site preparation and construction. This fencing shall be approved by the Director.

E. **Prohibited materials.** The following fence materials are prohibited unless approved by the Director for animal control, special security needs, or required by a City, State, or Federal law or regulation.

1. Barbed wire, or electrified fence, except within the RR zoning district;

2. Razor or concertina wire in conjunction with a fence or wall, or by itself within any zoning district; and

3. Chain link fencing within the front and street side yards in any zoning district.

F. **Screening.** This Subsection establishes standards for the screening and separation of adjoining residential and nonresidential land uses, equipment and outdoor storage areas, and surface parking areas.

1. **Screening between different land uses.** A commercial or industrial land use proposed on a site adjacent to a residential zoning district shall provide screening at the parcel boundary as follows. Other nonresidential uses adjacent to a residential use may also be required by the applicable review authority to comply with these requirements.

   a. The screen shall consist of plant materials and a solid, decorative wall of masonry or similar durable material, a minimum of six feet in height.

b. The maximum height of the wall shall comply with the provisions of Subsection B. (Height limits).

c. The decorative wall shall be architecturally treated on both sides, subject to the approval of the review authority.

d. A landscaping strip with a minimum width of five feet shall be installed adjacent to a screening wall, except that 10 feet of landscaping shall be provided between a parking lot and a screening wall, in compliance with Section 18.34.050.C (Landscape Location Requirements - Parking Lots).

e. The review authority may waive or approve a substitute for this requirement if the review authority first determines that:

(1) The relationship of the proposed uses make the required screening unnecessary;

(2) The intent of this Section can be successfully met by means of alternative screening methods;

(3) Physical constraints on the site make the required screening infeasible; or

(4) The physical characteristics of the site or adjoining parcels make the required screening unnecessary.

2. **Mechanical equipment, loading docks, and refuse areas.**

a. Roof or ground mounted mechanical equipment (e.g., air conditioning, heating, ventilation ducts, and exhaust, etc.), loading docks, refuse storage areas, and utility services (electrical transformers, gas meters, etc.) shall be screened from public view from adjoining public streets and rights-of-way and adjoining areas zoned for residential uses. Utility services are not allowed within any front setback, except for underground installations (i.e., vaults).

b. The method of screening shall be architecturally compatible with other on-site development in terms of colors, materials, and architectural style.

3. **Outdoor storage and work setbacks.** Land uses with outdoor storage of materials, recycling facility-processing centers, waste resource and waste recycling operations, and similar uses shall comply with the screening requirements established by Section 18.42.140 (Outdoor Storage).

4. **Outdoor building materials and garden supply areas.** Outdoor building materials and garden supply areas shall be screened with fencing, landscaping, walls, or similar material to minimize visibility of the storage area, with the screening plan first approved by the review authority.

18.30.060 - Height Limits and Exceptions

A. **Purpose.** This Section describes the required methods for measuring the height of structures in compliance with the height limits established by this Development Code, and exceptions to those height limits.

B. **Maximum height of structures.** The height of each structure shall not exceed the height limit established for the applicable zoning district by Article 2 (Zoning Districts and Allowable Land Uses), except as otherwise provided by this Section, or by Article 4 (Standards for Specific Land Uses).

C. **Height measurement.** The maximum allowable height shall be measured as the vertical distance from the natural grade of the site to an imaginary plane located the allowed number of feet above and parallel to the grade. See Figure 3-2. The location of natural grade shall be determined by the Director, and shall not be artificially raised to gain additional building height.

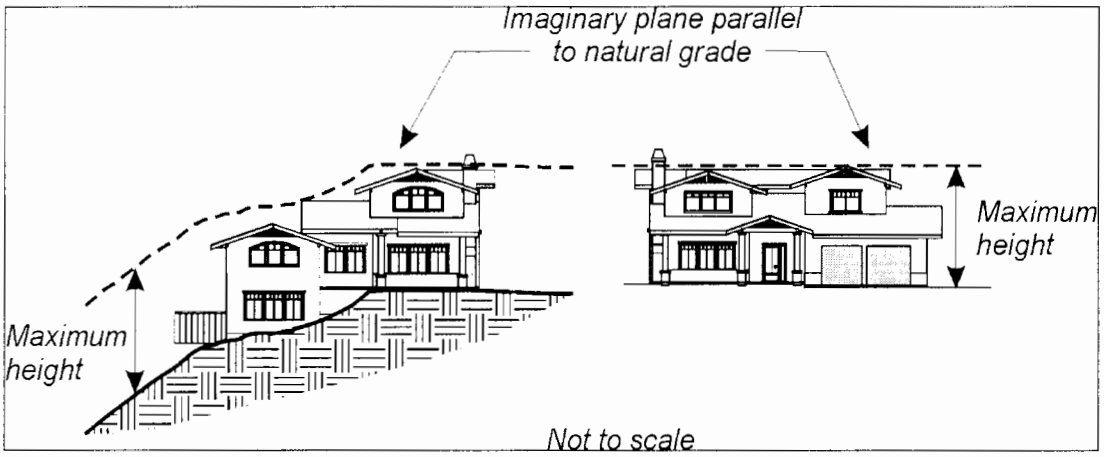

Figure 3-2 - Height Measurement

D. **Exceptions to height limits.** The following structures and structural features may exceed the height limits of this Development Code as noted:

1. **Architectural features.** A chimney, cupola, monument, mechanical equipment, or vent may exceed the height limits by a maximum of three feet. A spire, theater scenery loft, tower, or roof-mounted water tank may exceed the height limits by eight feet.

2. **Telecommunications facilities.** The height of communications facilities, including antennas, poles, towers, and necessary mechanical appurtenances shall comply with Chapter 18.44 (Telecommunications Facilities).

E. **Height limit at street corners.** Development proposed adjacent to any public or private street or alley intersection, or the intersection of a driveway with a street, in other than the CBD zoning district shall be designed to provide a traffic safety visibility area for pedestrian and traffic safety. See Figure 3-3.

1. **Measurement of visibility area.** A traffic safety visibility area is a triangle measured as follows, and may include private property and/or public right-of-way.

a. **Street intersections.** The visibility area shall be defined by measuring 20 feet from the intersection of the front and street side right-of-way lines (i.e., edge of pavement or curb), and connecting the lines across the property.

b. **Driveways.** The visibility area shall be defined by measuring 15 feet along the driveway from the intersection of the driveway with the street right-of-way line, and 15 feet along the street line, away from the driveway, and connecting the lines across the intervening property.

2. **Height limit.** No structure, sign, or landscape element shall exceed 42 inches in height within the traffic safety visibility area, unless approved by the Public Works Director, except for trees with their canopy trimmed to a minimum of six feet above grade.

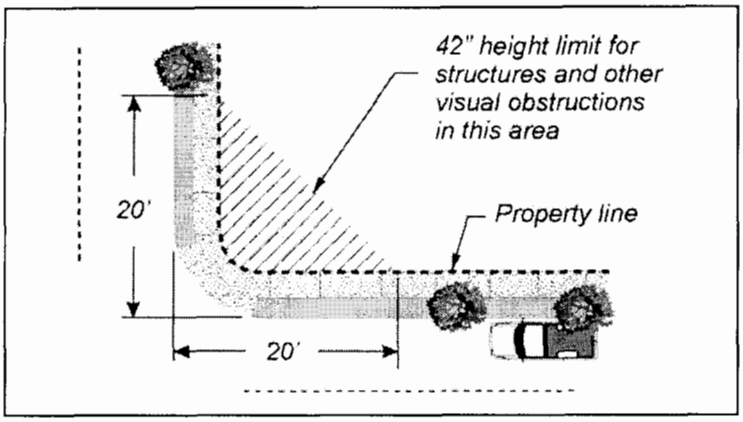

Figure 3-3 - Required Traffic Safety Visibility Area

18.30.070 - Outdoor Lighting

Outdoor lighting on the site of a multi-family or non-residential structure or use shall comply with the following requirements.

A. An outdoor light fixture shall be limited to a maximum height of 18 feet.

B. Outdoor lighting shall utilize energy-efficient (high pressure sodium, low pressure sodium, hard-wired compact florescent, or other lighting technology that is of equal or greater energy efficiency) fixtures and lamps.

C. Lighting fixtures shall be shielded or recessed to reduce light bleed to adjoining properties, by:

1. Ensuring that the light source (e.g., bulb, etc.) is not visible from off the site; and

2. Confining glare and reflections within the boundaries of the site to the maximum extent feasible.

Each light fixture shall be directed downward and away from adjoining properties and public rights-of-way, so that no on-site light fixture directly illuminates an area off the site.

D. No lighting on private property shall produce an illumination level greater than one footcandle on any property within a residential zoning district except on the site of the light source.

E. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness, as determined by the Director.

18.30.080 - Performance Standards

A. **Purpose.** This Section provides performance standards that are designed to minimize various potential operational impacts of land uses and development within the City, and promote compatibility with adjoining areas and land uses.

B. **Applicability.** The provisions of this Section apply to all new and existing land uses, including permanent and temporary uses in all zoning districts, unless an exemption is specifically provided. Uses existing on the effective date of this Section shall not be altered or modified thereafter to conflict with these standards.

C. **Combustibles and explosives.** The use, handling, storage, and transportation of combustibles and explosives shall comply with the Uniform Fire Code, and California Code of Regulations, Title 19.

D. **Dust**. Activities that may generate dust emissions (e.g., construction, grading, commercial gardening, and similar operations) shall be conducted to limit the emissions beyond the site boundary to the maximum extent feasible. Appropriate methods of dust management shall include the following, subject to approval by the City Engineer.

1. **Scheduling.** Grading shall be designed and grading activities shall be scheduled to ensure that repeat grading will not be required, and that completion of the dust-generating activity (e.g., construction, paving or planting) will occur as soon as possible.

2. **Operations during high winds.** Clearing, earth-moving, excavation operations or grading activities shall cease when the wind speed exceeds 25 miles per hour averaged over one hour.

3. **Limiting the area of disturbance.** The area disturbed by clearing, demolition, earth-moving, excavation operations or grading shall be minimized at all times.

4. **Dust control.** Dust emissions shall be controlled by watering a minimum of two times each day, paving or other treatment of permanent on-site roads and construction roads, the covering of trucks carrying loads with dust content, and/or other dust-preventive measures (e.g., hydroseeding, etc.).

5. **Revegetation.** Graded areas shall be revegetated as soon as possible, but within no longer than 30 days, to minimize dust and erosion. Disturbed areas of the construction site that are to remain inactive longer than three months shall be seeded and watered until grass cover is grown and maintained; and

6. **Containment.** Appropriate facilities shall be constructed to contain dust within the site as required by the City Engineer.

E. **Ground vibration.** No ground vibration shall be generated that is perceptible without instruments by a reasonable person at the property lines of the site, except for vibrations from temporary construction or demolition activities, and motor vehicle operations.

F. **Hazardous materials.** As required by the Safety Element of the General Plan, an applicant for a proposed non-residential project that will involve the generation, use, transportation, and/or storage of hazardous substances shall comply with the following requirements.

1. The applicant shall notify the Fire Protection Authority of all hazardous substances that are to be transported, stored, treated, or that could be accidentally released into the environment on the site.

2. The planning permit application for the project shall include detailed information on hazardous waste reduction, recycling, transportation, and storage, and a plan for emergency response to a release or threatened release of a hazardous material.

3. The site shall be provided with secondary containment facilities and a buffer zone adequate to protect public health and safety on a site with hazardous materials storage and/or processing activities, as required by the review authority.

G. **Light and glare.** Outdoor lighting shall comply with the requirements of Section 18.30.070 (Outdoor Lighting).

H. **Liquid waste.** No liquid shall be discharged into a public or private body of water, sewage system, watercourse, or into the ground, except in compliance with applicable regulations of the Regional Water Quality Control Board.

I. **Noise.** Noise emanating from the site shall comply with the City's noise standards in Municipal Code Chapter 9.44 (Noise).

J. **Odor.** No obnoxious odor or fumes shall be emitted that are perceptible without instruments by a reasonable person at the property line of the site.

K. **Radioactivity, electrical disturbance or electromagnetic interference.** None of the following shall be emitted:

1. Radioactivity, in a manner that does not comply with all applicable State and Federal regulations; or

2. Electrical disturbance or electromagnetic interference that interferes with normal radio or television reception, or with the function of other electronic equipment beyond the property line of the site; or that does not comply with all applicable Federal Communications Commission (FCC) and other applicable State and Federal regulations.

18.30.090 - Public Improvement Requirements

The development of an approved project shall include the construction of improvements to each public street frontage of the site as required by the review authority, the subdivision improvement requirements in Chapter 18.88 (Subdivision Design and Improvement Requirements), and/or the City's public improvement standards, as applicable. These improvements may include the widening of an existing street, and/or the installation or reinstallation of curb, gutter, and sidewalk; the installation of street trees and other landscaping within the public right-of-way; the installation of drainage facilities as required by the City Engineer, and/or other improvements determined by the review authority to be reasonably related to the needs for pedestrian and vehicle circulation, and community infrastructure demands created by the project.

18.30.100 - Setback Requirements and Exceptions

A. **Purpose.** This Section provides standards for the location, required size, and allowable uses of **front, side, and rear** setbacks. Setback standards provide open areas around structures for: visibility and traffic safety; access to and around structures; access to natural light, ventilation and direct sunlight; separation between potentially conflicting activities; and space for privacy, landscaping and recreation.

B. **Setback requirements.**

1. **Minimum setbacks for all structures.** Each structure shall comply with the front, interior side, street side, and rear setback requirements of the applicable zoning district, except:

   a. Where a different setback requirement is established for a specific land use by Article 4 (Standards for Specific Land Uses);

   b. Where a different setback requirement is established by Article 5 (Resource Management); and

   c. As otherwise provided by this Section.

   No portion of any structure, including eaves or roof overhangs, shall extend beyond a property line, or into an access easement or street right-of-way, except as provided by this Section.

2. **Setbacks from coastal bluff and areas subject to erosion.** See Section 18.54.050.C (~~Ocean Fronting Development - Setbacks).~~

3. **Exemptions from setback requirements.** The minimum setback requirements of this Development Code do not apply to the following:

   a. A projection into a required setback allowed by Subsection F.;

   b. A fence or wall six feet or less in height, when located outside of a front or street side setback;;

   c. A fence or wall 42 inches in height or less within a front or street side setback when located outside of the traffic visibility area required by Section 18.30.060.E (Height limit at street corners);

   d. A deck, earthwork, step, terrace, and other site design element that is placed directly upon grade and does not exceed a height of 18 inches above the surrounding grade at any point;

   e. A sign in compliance with Chapter 18.38 (Signs);

   f. A retaining wall less than 30 inches in height above finished grade. Any embankment to be retained that is over 48 inches in height shall be benched so that no individual retaining wall exceeds a height of 36 inches, and each bench is a minimum width of 36 inches; and

   g. An arbor or trellis (i.e., gateway) eight feet or less in height.

C. Measurement of setbacks. Setbacks shall be measured and applied as follows, except that the Director may require different setback measurement methods where the Director determines that unusual parcel configuration makes the following infeasible or ineffective. See Figure 3-4.

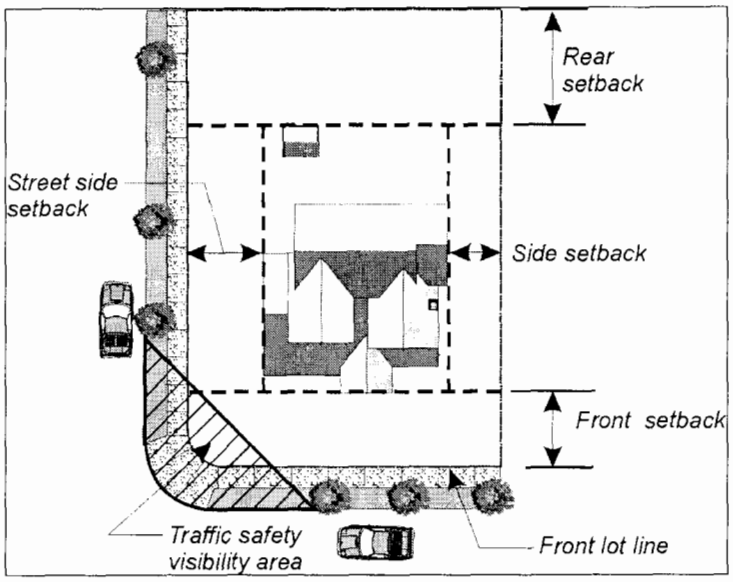

Figure 3-4 – Location and Measurement of Setbacks

1. **Front setback.** A front setback shall be measured at right angles from the nearest point on the front property line of the parcel (or edge of access easement on a private street) to the nearest point of the wall of the structure, except as provided in following Subsections C.1.a through C.1.e. The front property line is the most narrow dimension of a lot adjacent to a street.

   a. **Averaging.** In a residential zone where 50 percent or more of the parcels on the same block and on the same side of the street are developed with buildings, the front setback required for the applicable zoning district shall not apply, and the required front setback shall instead be not less than the average depth of the front setbacks of the developed parcels, to a minimum of 12 feet.

   b. **Mapped street with future improvements.** If the City has established a plan that identifies a right-of-way for the future construction of a new street or the widening of an existing street, a required front or street side setback shall be measured from the plan line.

   c. **Infill development within previously approved project.** Where the City has established specific setback requirements for individual vacant parcels through the approval of a specific plan, subdivision map, or other entitlement, those setbacks shall apply to continuing development within the approved project instead of the setbacks required by this Development Code.

   d. **Flag lot.** For a parcel with a fee ownership strip extending from a street or right-of-way to the building area of the parcel, the front setback shall be measured from the nearest point of the wall of the structure to the point where the access strip meets the bulk of the parcel; establishing a setback line parallel to the lot line nearest to the public street or right-of-way.

   e. **Corner lot.** The front setback shall be measured from the nearest point of the wall of the structure to the nearest point of the most narrow street frontage property line. If the property lines on both street frontages are of the same length, the property line to be used for front setback measurement shall be determined by the Director.

2. **Side setback.** The side setback shall be measured at right angles from the nearest point on the side property line of the parcel to the nearest point of the wall of the structure; establishing a setback line parallel to the side property line, which extends between the front and rear setbacks.

3. **Street side setback.** The side setback on the street side of a corner parcel shall be measured from the nearest point on the side property line bounding the street, or the edge of an easement for a private road, or the inside edge of the sidewalk, or a plan line established as described in Subsection D.1.c, whichever results in the greatest setback from the existing or future roadway.

4. **Rear setback.** The rear setback shall be measured at right angles from the nearest point on the rear property line to the nearest line of the structure, establishing a setback line parallel to the rear property line.

   a. The Director shall determine the location of the required rear setback on a double-frontage parcel.

   b. Where a parcel has no rear lot line because its side lot lines converge to a point, an assumed line five feet long within the parcel, parallel to, and at a maximum distance from the front lot line, shall be deemed to be the rear lot line for the purpose of determining the depth of the required rear setback.

D. **Limitations on the use of setbacks.**

1. **Structures.** A required setback area shall not be occupied by a structure other than those identified by Subsection B.3 as being exempt from the setback requirements of this Chapter.

2. **Storage.** No front or street side setback shall be used for the accumulation, placement or storage of automobiles or other motor vehicles, building materials, scrap, junk or machinery except for the following:

   a. Automobiles and trucks, not in excess of one-ton capacity, regularly in use, that are parked within a designated driveway; and

   b. Building materials required for construction on the parcel, immediately before and during a construction project which has a valid Building Permit in force.

3. **Parking.** See Section 18.36.090.A. (Parking Design and Development Standards - Location of parking).

4. **Storage of trailers prohibited.** No trailer shall be stored or parked within any required front or street side setback area in any nonresidential zoning district except where limited display areas are authorized through Minor Use Permit approval (Section 18.71.060).

5. **Mechanical and utility equipment.** See Subsection F.5 (Setback requirements for specific structures - Mechanical Equipment).

E. **Allowed projections into setbacks.** An architectural feature attached to a primary structure may extend beyond the wall of the structure and into a required front, side, or rear setback in compliance with Table 3-2. See also Figure 3-5. These requirements do not apply to accessory structures, which are instead subject to Section 18.42.160 (Residential Accessory Uses and Structures).

TABLE 3-2 - ALLOWED PROJECTIONS INTO SETBACKS

Projecting Feature	Allowed Projection into Specified Setback		
	Front Setback	Side Setback	Rear Setback
Balcony, deck, landing, porch, stairway - Uncovered, unenclosed, and less than 30 in. above grade	25% of setback	May project to property line	
Balcony, deck, landing, porch, stairway - Which may be roofed but is otherwise unenclosed	25% of setback to a maximum of 6 ft	20% of side setback	20% of setback
Balcony, deck, landing, porch, stairway - Covered and enclosed	Not allowed in setback		
Balcony, deck, landing, porch, stairway - Uncovered and unenclosed, 30 in. or more above grade	6 ft	30 in (1)	6 ft (1)
Bay window, or similar projecting feature	30 in	20% of setback (1)	30 in
Chimney/fireplace, 6 ft. or less in breadth	30 in	30 in (1)	30 in (1)
Cornice, eave, awning, roof overhang	30 in	30 in (1)	5 ft (1)

Notes:

(1) Feature may project no closer than 36 inches to any side property line.

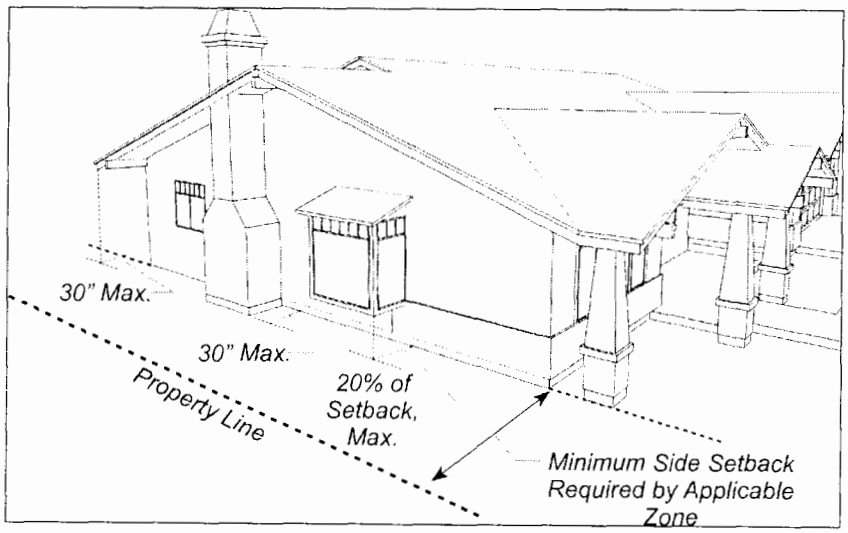

Figure 3-5- - Examples of allowed projections into side setback

F. **Setback requirements for specific structures:**

1. **Accessory structures.** See Section 18.42.030 (Agricultural Accessory Structures), and 18.42.160 (Residential Accessory Uses and Structures).

2. **Fences.** See Section 18.30.050 (Fences and Walls).

3. **Decks and other site design elements.** A detached deck, freestanding solar device, steps, terrace, or other site design element that is placed directly upon the grade, and that exceeds a height of 18 inches above the surrounding grade at any point, shall comply with the setback requirements of this Development Code for detached accessory structures. (Note: a site design element less than 18 inches above grade is exempt.)

4. **Swimming pool, hot tub, etc.** A swimming pool, hot tub, or spa on a parcel of 10,000 square feet or less shall be set back a minimum of five feet from side and rear property lines, and shall not be located within a front setback. A swimming pool, hot tub, or spa on a parcel larger than 10,000 square feet shall comply with the setback requirements of the applicable zoning district. All equipment associated with a pool, hot tub and/or spa on any parcel shall comply with the setback requirements of the applicable zoning district.

5. **Mechanical equipment.** Ground-mounted mechanical equipment located outside of a structure shall comply with the setback requirements of the applicable zoning district. Examples of this equipment include: swimming pool pumps and filters, heating, ventilation, and air conditioning, and similar equipment; and transformers, cable television distribution boxes, and similar utility equipment that is not underground. The Director may approve an exception to this requirement for the installation of propane or oil tanks within a required side or rear setback area, where there is no feasible alternative location that complies with the setback requirements.

18.30.110 - Solid Waste/Recyclable Materials Storage

A. **Purpose.** This Section provides standards which recognize the City's support for and compliance with the California Solid Waste Reuse and Recycling Access Act (Public Resources Code Sections 42900 through 42911).

B. **Applicability.** These requirements apply to new multi-family residential and nonresidential development, or changes to existing multi-family residential or nonresidential development that increase gross floor area by 25 percent or more.

C. **Extent of storage area required.** Solid waste and recyclables storage areas shall be provided in the number, dimensions, types, and locations required by the Department or review authority. Additional storage areas may be required, as deemed necessary by the Director.

D. **Enclosure requirements.** Storage areas shall be fully enclosed by a six-foot high decorative masonry wall or other solid enclosure that is architecturally compatible with adjacent structures. Gates shall be solid and continuously maintained in working order. A concrete apron shall be installed. Landscaping shall be provided to soften and screen the enclosure in compliance with Chapter 18.34 (Landscaping Standards). See Figure 3-6.

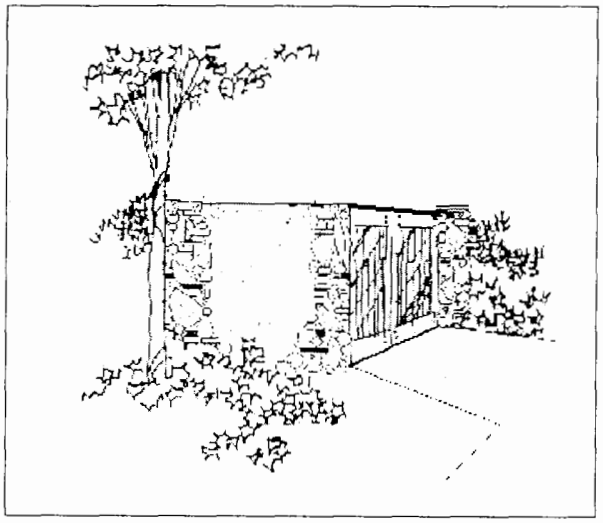

Figure 3-6 – Solid Waste Enclosure

18.30.120 - Underground Utilities

Utility connections to new structures shall be installed underground; except that in a neighborhood where utilities are located overhead, a proposed structure of less than 3,000 square feet may take its service from the existing overhead facilities.

CHAPTER 18.31 - DENSITY BONUSES AND AFFORDABLE HOUSING INCENTIVES

Sections:

18.31.010 – Purpose
18.31.015 - Applicability
18.31.020 – Definitions
18.31.030 - Density Bonus Eligibility
18.31.040 - Types of Density Bonuses and Incentives Allowed
18.31.050 - Density Bonus Procedures

18.31.010 - Purpose

A. This Chapter is intended to implement the requirements of State law (Government Code Sections 65583, 65913, and 65915, et seq.) and the Housing Element of the General Plan, by offering incentives for the development of housing that is affordable to the types of households and qualifying residents identified in Section 18.31.030 (Density Bonus Eligibility).

B. This chapter also sets forth density bonus and housing incentives in addition to State law which encourage the development of housing that is affordable to a range of households with varying income levels.

18.31.015 – Applicability

This Chapter shall govern the review and approval of Use Permits, coastal development permits, and all other applicable planning permits.

18.31.020 - Definitions

The specialized and technical terms and phrases used in this Chapter are defined in Article 10 (Glossary), under "Affordable and Inclusionary Housing Requirements."

"Effective date of this Chapter" means the date of Local Coastal Program effective certification by the Coastal Commission pursuant to Section 13544 of Title 14 of the California Code of Regulations.

18.31.030 – Density Bonus Eligibility

In order to be eligible for a density bonus and other incentives as provided by this Chapter, a proposed housing development shall comply with the following requirements, and satisfy all other applicable provisions of this Development Code, except as provided by Section 18.31.040 (Types of Density Bonuses and Incentives Allowed), below.

A. **Resident requirements.** In order to qualify for a density bonus, the housing development shall meet current State density bonus law requirements with regard to affordability and income levels. City staff shall keep a summary of State density bonus law available for review by interested parties.

B. **Minimum project size to qualify for density bonus.** The density shall be available only to a housing development of five or more dwelling units that provide affordable housing as compliance to the inclusionary housing ordinance 18.32 or with State law.

C. **Condominium conversion projects.** A condominium conversion project shall comply with the eligibility and other requirements in State law (Government Code Section 65915.5).

D. **"Sweat equity" developments.** A "sweat equity" housing development (one where some or all of the construction labor is provided by purchasers of the housing units), where all purchasers are lower income households, but where the continuing affordability of the units is not guaranteed for the time period required by

Section 18.32.060 (D) (Continued Affordability), may be granted incentives in compliance with Subsection 18.31.040.E (Types of Density Bonuses and Incentives Allowed, Incentives for "sweat equity" developments), ~~but shall not be entitled to a density bonus~~. **[*CITY REQUESTED MOD*]**

E. **Donations of Land.** The dedication of land large enough to accommodate at least 15 percent of the market-rate units at densities suitable for affordable housing. Land donations must satisfy all of the following requirements:

1. Have the appropriate General Plan designation, zoning, and development standards to permit the feasible development of units affordable to households per Subsection 18.32.060.A in an amount equal to at least 15 percent of the units in the residential development;

2. Served by adequate public facilities and infrastructure;

3. Have all necessary approvals except building permits needed to develop the affordable housing;

4. Subject to a deed restriction to ensure continued affordability; and

5. Transferred to City or to a housing developer identified by the City.

18.31.040 – Types of Density Bonuses and Incentives Allowed

The amount of a density bonus and the extent of other incentives allowed by a proposed housing development shall be determined by the Council in compliance with this Section.

A. Density bonus in compliance with State Law.

1. **Density ranges described in land use designations of the certified LCP may be exceeded by a minimum of 20% and a maximum of 35% to encourage affordable housing production pursuant to §65915 of the California Government Code (Density Bonuses) in effect in 2007.~~.~~ In reviewing a proposed density increase, the City shall identify all feasible means of accommodating the density increase and consider the effects of such means on coastal resources. The City shall only grant a density increase if the City determines that the means of accommodating the density increase proposed by the applicant does not have an adverse effect on coastal resources. If, however, the City determines that the means for accommodating the density increase proposed by the applicant will have an adverse effect on coastal resources, the City shall not grant the density increase.** ~~The density bonus shall be in compliance with State Law, for ease of understanding, the inclusionary requirements, density bonus, and incentives provided by Fort Bragg (in compliance with State Law) are outlined in a Summary of Inclusionary Housing Requirements and Density Bonus~~

2. If a density bonus and/or other incentives cannot be accommodated on a site due to strict compliance with the provisions of this Development Code, the Council may modify or waive other development standards as necessary to accommodate all bonus units and other incentives to which the development is entitled **only if it is determined that the means of accommodating the proposed development standard modifications would not have an adverse effect on coastal resources. If, however, the City determines that the means for accommodating the proposed development standard modifications would have an adverse effect on coastal resources, the City shall not grant the development standard modifications.**

3. A development shall be entitled to additional incentives or concessions as provided by State law, if the additional requirements of the State law (Government Code Section 65915(d)(2)) are met **and only if it is determined that the means of accommodating the additional incentives or concessions would not have an adverse effect on coastal resources. If, however, the City determines that the means for accommodating the additional incentives or concessions would have an adverse effect on coastal resources, the City shall not grant the development standard modifications.**

4. **Any housing development approved pursuant to Government Code Section 65915 shall be consistent with all applicable certified Local Coastal Program policies and development standards.**

B. **Additional density bonus.** Projects may be eligible for an additional density bonus as outlined below:

1. **Bonus for preferred design and/or green design.** An additional 5 percent density bonus may be granted to developments with preferred design features and or green/environmentally sustainable design features as determined by the Planning Commission.

2. **Bonus for donation of land.** A density bonus of 10 percent is available for the donation of land that complies with the requirements of Subsection 18.31.030 E. (Density Bonus Eligibility, Donations of land).

3. **In reviewing a proposed additional density bonus, the City shall identify all feasible means of accommodating the additional density bonus and consider the effects of such means on coastal resources. The City shall only grant an additional density bonus if the City determines that the means of accommodating the additional density bonus proposed by the applicant does not have an adverse effect on coastal resources. If, however, the City determines that the means for accommodating the additional density bonus proposed by the applicant will have an adverse effect on coastal resources, the City shall not grant the additional density bonus.**

C. **Extent of bonus and incentives allowed in addition to those provided for by State Law.**

1. **Incentives allowed for "sweat equity" housing.** A "sweat equity" development in compliance with Section 18.31.030.D (Density Bonus Eligibility, "sweat equity" developments) may be granted incentives only, in compliance with Subsection E., below.

2. **Bonus and incentives allowed for housing with child care facility.** A housing development that complies with the resident requirements of State Density Bonus Law, and also includes a childcare facility other than a large or small family day care home, that will be located on the site of, as part of, or adjacent to, the development shall be subject to the following additional bonus, incentives, and requirements.

a. **Additional bonus and incentives.** The City shall grant a housing development that includes a child care facility in compliance with this Subsection either of the following:

(1) An additional density bonus that is an amount of floor area in square feet of residential space that is equal to or greater than the floor area of the child care facility; or

(2) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

b. **Requirements to qualify for additional bonus and incentives.** The City shall require, as a condition of approving the housing development, that:

(1) The child care facility shall remain in operation for a period of time that is as long or longer than the period of time during which the density bonus units are required to remain affordable in compliance with Section 18.32.060.D. (Continued Affordability); and

(2) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income in compliance with Section 18.31.030.A.

c. **In reviewing a proposed density bonus or concession for a child care facility, the City shall identify all feasible means of accommodating the density bonus or concession and consider the effects of such means on coastal resources. The City shall only grant an density bonus or concession for a child care facility if the City determines that the means of accommodating the density bonus or concession does not have an adverse effect on coastal resources. If, however, the City determines that the means for accommodating the density bonus or concession will have an adverse effect on coastal resources, the City shall not grant the density bonus or concession.**

The City shall not be required to provide a density bonus or concession for a child care facility in compliance with this Subsection if it finds, based upon substantial evidence, that the community has adequate child care facilities.

~~C~~D. **Other incentives.**

1. **Available concessions or incentives.** A qualifying project shall be entitled to at least one of the following concessions or incentives identified by State law (Government Code Section 65915[b]), in addition to the density bonus allowed by State Law and Subsection B, above:

   a. A reduction in the site development standards of this Development Code [e.g. site coverage, landscaping, height restriction waivers, reduced parcel dimensions (i.e., minimum length and width, including lot area), and/or setback requirements];

   b. Approval of mixed use zoning not otherwise allowed by this Development Code in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing development and the existing or planned development in the area where the project will be located;

   c. A reduction in the vehicular parking standards, inclusive of handicapped and guest parking, not to exceed the following ratios:

      (1) Zero to one bedrooms: one on-site parking space.
      (2) Two to three bedrooms: two on-site parking spaces.
      (3) Four and more bedrooms: two and one-half parking spaces.

      If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide "on-site parking" per the Land Use and Development Code, but not through on-street parking;

   d. Other regulatory incentives or concessions proposed by the developer or the City that will result in identifiable and actual cost reductions.

2. **Limitations on concessions or incentives if adverse effects on coastal resources. In reviewing a proposal for one or more of the above incentives, the City shall consider all feasible alternative incentives and their effects on coastal resources. The City shall only grant one or more of the above incentives if the City determines that the incentive(s) proposed pursuant to this section will not have any adverse effects on coastal resources. The City may grant one or more of those incentives that do not have an adverse effect on coastal resources. If all feasible incentives would have an adverse effect on coastal resources, the City shall not grant any of the incentives.**

~~2~~3. **Finding when concession or incentive not required.** The City shall approve one or more of the above incentives, notwithstanding the other provisions of this Chapter, unless it makes a written finding, based on substantial evidence, that the additional concession or incentive is not required in order to provide for affordable housing costs as defined in Health and Safety Code Section 50052.5, or for rents for the

targeted units to be set in compliance with Government Code Section 65915(c), **or all feasible incentives would have an adverse effect on coastal resources**.

~~3. **Preferred or Pre-Approved Council incentives.** The City has established a set of preferred incentives by City Council resolution, from which developers may select an incentive with certainty of approval by the Council.~~

~~D~~E. **Applicant requested incentives.**

1. **Applicant specified concessions or incentives.** An applicant may submit to the City a request for specific concessions or incentives in compliance with this Section.

2. **Required findings to reject concession or incentive.** The City shall grant the concession or incentive requested by the applicant unless the Council makes a written finding, based upon substantial evidence, of any of the following:

   a. The concession or incentive is not required in order to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as affordable to very low, low, or median or moderate income households as required; or

   b. The concession or incentive would have a specific adverse impact, as defined by Government Code Section 65589.5(d)(2), upon public health and safety, or the physical environment, or on any real property 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; or

   c. The concession or incentive does not result in identifiable, financially sufficient, and actual cost reductions as identified by the applicant in the incentive request to the City.

   d. **The incentives or concessions would not have an adverse effect on coastal resources. The City shall only grant an incentive or concession if the City determines that the development incentive or concession requested by an applicant pursuant to this section will not have any adverse effects on coastal resources. The City may grant one or more of those**

~~E~~F. **Incentives for "sweat equity" developments.** A "sweat equity" development where some or all of the construction labor is provided by purchasers of the housing units, all of whom are lower income households, but where the continuing affordability of the units is not guaranteed for the time period required by Section 18.32.060.D. (Continued Affordability), may be granted incentives as follows:

1. One incentive in compliance with Subsection C.1 may be granted to a development where 100 percent of the units are provided to low income households; and

2. Two incentives in compliance with Subsection C.1 may be granted to a development where 100 percent of the units are provided to very low income households.

3. Sweat equity projects will be subject to design review in compliance with Section 18.71.050 concurrent with the provision of any City incentive.

4. **In reviewing a proposal for one or more of the above incentives, the City shall consider all feasible alternative incentives and their effects on coastal resources. The City shall only grant one or more of the above incentives if the City determines that the incentive(s) proposed pursuant to this section will not have any adverse effects on coastal resources. The City may grant one or more of those incentives that do not have an adverse effect on coastal resources. If all feasible incentives would have an adverse effect on coastal resources, the City shall not grant any of the incentives.**

18.31.050 - Density Bonus Procedures

A. **Permit requirements.** A request for a density bonus and other incentives shall be evaluated and decided through Use Permit approval granted in compliance with Section 18.71.060 (Use Permits and Minor Use Permits); provided, the decision of the Commission on a Use Permit application shall be a recommendation to the Council, and the density bonus and other incentives shall be approved by the Council. **A request for a density bonus and other incentives may also require a Coastal Development Permit.**

B. **~~Findings~~ Procedures for approval.**

1. Required Findings. In addition to the findings required by Section 18.71.060 for the approval of a Use Permit **and the findings required by Section xxx for the approval of a Coastal Development Permit**, the approval of a density bonus **and other incentives** shall require that the review authority first make all of the following additional findings:

~~1~~**a**. The residential development project will be consistent with the General Plan;

~~2~~**b**. The approved number of dwelling units can be accommodated by existing and planned infrastructure capacities;

~~3~~**c**. Adequate evidence exists to indicate that the proposed residential project will provide affordable housing in a manner consistent with **all standards set forth in Government Code Section 65915** ~~the purpose and intent of this Chapter~~;

~~4~~**d**. In the event that the City does not grant at least one financial concession or incentive as defined by State law (Government Code Section 65915) in addition to the density bonus, additional concessions or incentives are not necessary to ensure affordable housing costs as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as specified in Government Code Section 65915(c); and

~~5~~**e**. There are sufficient provisions to guarantee that the affordable dwelling units will remain affordable for the required time period.

f. The approved density bonus and other incentives do not have an adverse effect on coastal resources.

2. In accordance with Government Code Section 65915 (g), the density bonus shall be calculated based on the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the LCP. The "otherwise maximum allowable residential density" shall mean the maximum density determined by applying all site-specific environmental development constraints applicable under the coastal zoning ordinance and land use plan certified by the Coastal Commission.

3. Any housing development approved pursuant to Government Code Section 65915 shall be consistent with all applicable certified local coastal program policies and development standards. In reviewing a proposed density increase, the City shall identify all feasible means of accommodating the density increase and consider the effects of such means on coastal resources. The City shall only grant a density increase if the City determines that the means of accommodating the density increase proposed by the applicant does not have an adverse effect on coastal resources. If, however, the City determines that the means for accommodating the density increase proposed by the applicant will have an adverse effect on coastal resources, the City shall not grant the density increase.

4. In addition to a density bonus, the City shall grant to a housing development that complies with the provisions of Section A. above, one of the incentives or concessions identified in Government Code Section 65915(h), unless the City finds that an incentive or concession is not required in order to provide for affordable housing costs or rents. In reviewing a proposed incentive or concession, the City shall consider all feasible alternative incentives and concessions and their effects on coastal

resources. The City shall only grant an incentive or concession if the City determines that the development incentive or concession requested by an applicant pursuant to this section will not have any adverse effects on coastal resources. The City may grant one or more of those incentives or concessions that do not have an adverse effect on coastal resources. If all feasible incentives or concessions would have an adverse effect on coastal resources, the City shall not grant any incentive or concession.

5. For the purposes of this section, "coastal resources" means any resource which is afforded protection under the policies of Chapter 3 of the Coastal Act, California Public Resources Code section 30200 *et seq.*, including but not limited to public access, marine and other aquatic resources, environmentally sensitive habitat, and the visual quality of coastal areas.

~~C~~6. **Affordable Housing Regulatory Agreement**. An applicant requesting a density bonus shall draft, and agree to enter into, an Affordable Housing Regulatory Agreement with the City ("agreement") as described in Subsection 18.32.080.B and 18.32.080.C. The terms of the draft agreement shall be reviewed and revised as appropriate by the City Manager and/or the City Attorney. Provisions for enforcement of Affordable Housing Regulatory Agreements are established in Subsection 18.32.100.

~~D~~7. **Control of Affordable Unit Resale.** In order to maintain the availability of the for-sale affordable units constructed in compliance with this Chapter, the resale conditions established in Subsection 18.32.100 shall apply. Any abuse in the resale provisions shall be referred to the City Attorney for appropriate action.

CHAPTER 18.31 - DENSITY BONUSES AND AFFORDABLE HOUSING INCENTIVES

[CITY REQUESTED MOD]

Sections:

~~18.31.010 - Purpose~~
~~18.31.012 - Definitions~~
~~18.31.020 - Eligibility for Density Bonus and Incentives~~
~~18.31.030 - Types of Density Bonuses and Incentives Allowed~~
~~18.31.040 - Continued Availability of Density Bonus Units~~
~~18.31.050 - Location and Type of Designated Density Bonus Units~~
~~18.31.060 - Processing of Density Bonus Requests~~
~~18.31.070 - Density Bonus Agreement~~
~~18.31.080 - Control of Affordable Unit Resale~~

~~18.31.010 - Purpose~~

~~A. This Chapter establishes standards and procedures to encourage the development of housing that is affordable to a range of households with varying income levels.~~

~~B. This Chapter is intended to implement the requirements of State law (Government Code Sections 65302, 65913, and 65915, et seq.) and the Housing Element of the General Plan, by offering incentives for the development of housing that is affordable to the types of households and qualifying residents identified in Section 18.31.020 (Eligibility for Density Bonus and Incentives), below.~~

~~18.31.012 - Definitions~~

~~The specialized and technical terms and phrases used in this Chapter are defined in Article 10 (Glossary), under "Affordable and Inclusionary Housing Requirements."~~

~~18.31.020 - Eligibility for Density Bonus and Incentives~~

~~In order to be eligible for a density bonus and other incentives as provided by this Chapter, a proposed housing development shall comply with the following requirements, and satisfy all other applicable provisions of this Development Code, except as provided by Section 18.31.030 (Types of Density Bonuses and Incentives Allowed), below.~~

~~A. **Resident requirements.** The housing development shall be designed and constructed so that at least one of the following applies:~~

~~1. 20 percent of the total number of proposed dwelling units are reserved for lower income households, as defined in Health and Safety Code Section 50079.5;~~

~~2. 10 percent of the total number of proposed dwelling units are reserved for very low income households, as defined in Health and Safety Code Section 50105;~~

~~3. 50 percent of the total number of proposed dwelling units are reserved for qualifying residents (senior citizens) as defined by Civil Code Section 51.3; or~~

4. 20 percent of the total dwelling units in a condominium project, as defined in Civil Code Section 1351(f), are reserved for persons and families of moderate income, as defined in Health and Safety Code Section 50093.

A density bonus granted in compliance with Section 18.31.030, below shall not be included when determining the minimum number of housing units that is equal to the percentages required above.

B. **Minimum project size to qualify for density bonus.** The density bonus provided by this Chapter shall be available only to a housing development of five or more dwelling units. The Council may approve a density bonus for a housing development of two to four dwelling units if 100 percent of the total units are for very low income households, and the Council finds that the housing development is designed, or has appropriate conditions to ensure that the proposed units are compatible with the surrounding neighborhood.

C. **Condominium conversion projects.** A condominium conversion project shall comply with the eligibility and other requirements in State law (Government Code Section 65915.5).

D. **"Sweat equity" developments.** A "sweat equity" housing development (one where some or all of the construction labor is provided by purchasers of the housing units), where all purchasers are lower income households, but where the continuing affordability of the units is not guaranteed for the time period required by Section 18.31.040 (Continued Availability of Affordable Units), may be granted incentives in compliance with Section 18.31.030.E, but shall not be entitled to a density bonus.

18.31.030 - Types of Density Bonuses and Incentives Allowed

The amount of a density bonus, and the extent of other incentives allowed a proposed housing development shall be determined by the Council in compliance with this Section.

A. **Extent of bonus and incentives allowed.**

1. **Bonus and incentives allowed for housing.** A housing development that complies with all applicable provisions of this Chapter shall be entitled to a density bonus as identified in Subsection B., and at least one of the other incentives identified in Subsection C., except:

a. As provided by State law (Government Code Section 65915.5) for a condominium conversion project;

b. For a "sweat equity" development in compliance with Section 18.31.020.D, which may be granted incentives only, in compliance with Subsection E., below; and

c. That if an applicant agrees to construct both 20 percent of the total units for lower income households and 10 percent of the total units for very low income households, the developer is entitled to a density bonus and at least two additional incentives identified in this Section.

If a density bonus and/or other incentives cannot be accommodated on a site due to strict compliance with the provisions of this Development Code, the Council may modify or waive other development standards as necessary to accommodate all bonus units and other incentives to which the development is entitled.

~~2. **Bonus and incentives allowed for housing with child care facility.** A housing development that complies with the resident requirements of Section 18.31.020.A, and also includes a childcare facility other than a large or small family day care home, that will be located on the site of, as part of, or adjacent to the development shall be subject to the following additional bonus, incentives, and requirements.~~

~~a. **Additional bonus and incentives.** The City shall grant a housing development that includes a child care facility in compliance with this Subsection either of the following:~~

~~(1) An additional density bonus that is an amount of floor area in square feet of residential space that is equal to or greater than the floor area of the child care facility; or~~

~~(2) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.~~

~~b. **Requirements to qualify for additional bonus and incentives.** The City shall require, as a condition of approving the housing development, that:~~

~~(1) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable in compliance with Section 18.31.040 (Continued Availability of Affordable Units); and~~

~~(2) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income in compliance with Section 18.31.030.A.~~

~~The City shall not be required to provide a density bonus or concession for a child care facility in compliance with this Subsection if it finds, based upon substantial evidence, that the community has adequate child care facilities.~~

~~B. **Density bonus.** The calculation of a density bonus in compliance with this Subsection that results in fractional units shall be rounded up to the next whole number, as required by State law. For the purposes of calculating a bonus, the residential units do not have to be based upon individual subdivision maps or parcels.~~

~~1. **General bonus.** A density bonus for a housing development that complies with the eligibility requirements in Subsection 18.31.020.A (Resident requirements), above shall consist of at least a 25 percent increase over the maximum number of dwelling units allowed by the applicable General Plan designation and zoning district, unless a lesser percentage is elected by the applicant.~~

~~2. **Bonus for condominium project.** A density bonus for a condominium project that complies with the eligibility requirements of Subsection A.1.a., above shall consist of at least a 10 percent increase over the maximum number of dwelling units allowed by the applicable General Plan designation and zoning district, unless a lesser percentage is elected by the applicant.~~

~~C. **Other incentives.**~~

~~1. **Available concessions or incentives.** A qualifying project shall be entitled to at least one of the following concessions or incentives identified by State law (Government Code Section 65915[b]), in addition to the density bonus allowed by Subsection B., above:~~

~~a. A reduction in the site development standards of this Development Code (e.g. site coverage, landscaping, off-street parking requirements, reduced parcel dimensions (i.e., minimum length and width, but not area), and/or setback requirements);~~

~~b. Approval of mixed use zoning not otherwise allowed by this Development Code in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing development and the existing or planned development in the area where the project will be located; and/or~~

~~c. Other regulatory incentives or concessions proposed by the developer or the City that will result in identifiable and actual cost reductions.~~

~~2. **Finding when concession or incentive not required.** The Council shall approve one or more of the above incentives, notwithstanding the other provisions of this Chapter, unless it makes a written finding, based on substantial evidence, that the additional concession or incentive is not required in order to provide for affordable housing costs as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set in compliance with Government Code Section 65915(c).~~

~~D. **Applicant requested incentives.**~~

~~1. **Applicant specified concessions or incentives.** An applicant may submit to the City a request for specific concessions or incentives in compliance with this Section.~~

~~2. **Required findings to reject concession or incentive.** The Council shall grant the concession or incentive requested by the applicant unless the Council makes a written finding, based upon substantial evidence, of either of the following:~~

~~a. The concession or incentive is not required in order to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as identified in Section 18.31.040.B (Rent cost requirements), below; or~~

~~b. The concession or incentive would have a specific adverse impact, as defined by Government Code Section 65589.5(d)(2), upon public health and safety, or the physical environment, or on any real property 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.~~

~~E. **Incentives for "sweat equity" developments.** A "sweat equity" development where some or all of the construction labor is provided by purchasers of the housing units, all of whom are lower income households, but where the continuing affordability of the units is not guaranteed for the time period required by Section 18.31.040 (Continued Availability of Affordable Units), may be granted incentives as follows:~~

~~1. One incentive in compliance with Subsection C.1 may be granted to a development where 100 percent of the units are provided to low income households; and~~

~~2. Two incentives in compliance with Subsection C.1 may be granted to a development where 100 percent of the units are provided to very low income households.~~

~~18.31.040 - Continued Availability of Affordable Units~~

~~The planning permit application for the affordable housing development project shall include procedures proposed by the developer to maintain the continued affordability of the dwelling units that qualified the housing development for a density bonus and other incentives, in compliance with this Section.~~

~~A. **Duration of affordability.** The applicant shall agree to, and the City shall ensure, the continued availability of the units that qualified the housing development project for a density bonus and other incentives in compliance with the following.~~

~~1. **Low income units - 30 years.** The continued availability of low income units shall be maintained for a minimum of 30 years, or a longer time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.~~

~~2. **Low to moderate income units - development with public funding - 30 years.** A housing development that receives a direct financial contribution as an additional incentive in compliance with Section 18.31.030 (Types of Density Bonuses and Incentives Allowed), above through participation in the cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, shall maintain the availability of low to moderate income units for a minimum of 30 years, as required by State law (Government Code Section 65916).~~

~~3. **Moderate income units in a condominium project - 10 years.** The continued availability of moderate income units in a condominium project shall be maintained for a minimum of 10 years.~~

~~B. **Rent cost requirements.** The annual rents charged for the housing units in the development that qualify the project for a density bonus and other incentives, shall not exceed the following amounts during the period of continued availability required by this Section:~~

~~1. **Very low income households.** Thirty percent of 50 percent of the area median income, for units targeted for very low income households, as defined in Health and Safety Code Section 50105; and~~

~~2. **Low income households.** Thirty percent of 80 percent of the area median income, for units targeted for low income households, as defined in Health and Safety Code Section 50079.5.~~

~~18.31.050 - Location and Type of Affordable Units~~

~~A. **Location within project, relationship to affordable units.** As required by State law (Government Code Section 65915[g]), the location of the affordable units within the qualifying housing development project may be at the discretion of the developer. However, the designated units shall be:~~

~~1. **Dispersed.** Dispersed throughout the residential project or, subject to the approval of the Director, may be clustered within the residential project when this furthers affordable housing opportunities.~~

~~2. **Proportional.** Proportional, in number, bedroom number and size, and location, to the non-affordable dwelling units; and~~

~~3. **Comparable.** Comparable with the design or use of the non-affordable units in terms of appearance, materials, and finished quality. Subject to the approval of the Director, the square-footage of the affordable units and the interior features in the affordable units need not be the same as, or equivalent to those in non-affordable units in the same residential project, so long as they are of good quality and are consistent with contemporary standards for new housing.~~

~~B. **Phasing.** If a project is to be constructed in phases, the affordable units shall be phased in the same proportion as the non-affordable units, or phased in another sequence acceptable to the City.~~

~~18.31.060 - Processing Density Bonus Requests~~

~~A. **Permit requirement.** A request for a density bonus and other incentives shall be evaluated and decided through Use Permit approval granted in compliance with Section 18.71.060 (Use Permits and Minor Use Permits); provided, the decision of the Commission on a Use Permit application shall be a recommendation to the Council, and the density bonus and other incentives shall be approved by the Council.~~

~~B. **Findings for approval.** In addition to the findings required by Section 18.71.060 for the approval of a Use Permit, the approval of a density bonus shall require that the review authority first make all of the following additional findings:~~

~~1. The residential development project will be consistent with the General Plan;~~

~~2. The approved number of dwelling units can be accommodated by existing and planned infrastructure capacities;~~

~~3. Adequate evidence exists to indicate that the proposed residential project will provide affordable housing in a manner consistent with the purpose and intent of this Chapter;~~

~~4. In the event that the City does not grant at least one financial concession or incentive as defined in State law (Government Code Section 65915) in addition to the density bonus, that additional concessions or incentives are not necessary to ensure affordable housing costs as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as specified in Government Code Section 65915(c); and~~

~~5. There are sufficient provisions to guarantee that the affordable dwelling units will remain affordable for the required time period.~~

~~18.31.070 - Density Bonus Agreement~~

~~A. **Procedures.** An applicant requesting a density bonus, shall draft, and agree to enter into, a density bonus agreement ("agreement") with the City. The terms of the draft agreement shall be reviewed and revised as appropriate by the City Manager and/or the City Attorney.~~

~~B. **Execution of agreement.**~~

~~1. **Recordation of agreement.** Following execution of the agreement by all parties, the applicant shall record the completed agreement on the parcels designated for the construction of the affordable dwelling units, at the County Recorder=s Office.~~

~~2. **Timing of approval and recordation.** The approval and recordation of the agreement shall take place at the same time as the final or parcel map or, where a map is not being processed, before issuance of Building Permits for the affordable dwelling units.~~

~~3. **Binding on all parties.** The agreement shall be binding on all future owners, developers, and/or successors-in-interest.~~

~~C. **Agreement contents.** The agreement shall include at least the following information:~~

~~1. **Number of dwelling units.** The total number of dwelling units approved for the housing development project, including the number of affordable dwelling units;~~

2. **Description of targeted income group.** A description of the household income group to be accommodated by the housing development project, and the standards and methodology for determining the corresponding affordable rent or affordable sales price and housing cost consistent with HUD Guidelines;

3. **Marketing plan.** The marketing plan for the affordable dwelling units;

4. **Description and location of affordable units.** The location, unit sizes (in square feet), and number of bedrooms of the affordable dwelling units;

5. **Tenure of the use restrictions.** Tenure of the affordability restrictions for the affordable dwelling units in compliance with Section 18.31.040 (Continued Availability of Affordable Units), above;

6. **Completion and occupancy schedule.** A schedule for completion and occupancy of the affordable dwelling units;

7. **Description of concessions and/or incentives.** A description of the additional concessions and/or incentives being provided by the City;

8. **Remedies for breach of the agreement.** A description of the remedies for breach of the density bonus agreement by the owners, developers, and/or successors-in-interest of the development project; and

9. **Other provisions.** Other provisions to ensure successful implementation and compliance with this Chapter.

D. **Agreement provisions.** The agreement shall include at least the following provisions:

1. **Continuing right-of-first-refusal.** The developer shall give the City the continuing right-of-first-refusal to lease or purchase any or all of the affordable dwelling units at the appraised value;

2. **Written approval of City required prior to transfer of unit.** The deeds to the affordable dwelling units shall contain a covenant stating that the developer or successors-in-interest shall not assign, lease, rent, sell, sublet, or otherwise transfer any interests for the affordable dwelling units without the prior written approval of the City;

3. **Confirmation of price by City.** When providing the written approval, the City shall confirm that the price (rent or sale) of the affordable dwelling unit is consistent with the limits established for low, very low, or moderate - income households, as published by HUD;

4. **Continuously occupied by eligible households.** The City shall have the authority to enter into other agreements with the developer, or purchasers of the affordable dwelling units, to ensure that the required dwelling units are continuously occupied by eligible households;

5. **Enforcement of compliance.** Applicable deed restrictions, in a form satisfactory to the City Attorney, shall contain provisions for the enforcement of owner or developer compliance;

6. **Failure to comply.** Any default or failure to comply may result in daily penalties, liens, foreclosure, specific performance, or withdrawal of the Certificates of Occupancy; and

7. **Recovery of all City-related costs.** In any action taken to enforce compliance with deed restrictions, the City Attorney shall, if compliance is ordered by a court of competent jurisdiction, take all action that may be allowed by law to recover all of the City=s costs of action including legal services.

~~E. **For-sale housing conditions.** In the case of for-sale housing developments, the agreement shall provide for the following conditions governing the initial sale and use of the affordable dwelling units during the applicable affordability restriction period:~~

~~1. **Eligible and qualified residents.** The affordable dwelling units shall be owner-occupied by eligible very low or low income households, or by qualified residents in the case of senior housing;~~

~~2. **Mandatory contents of instrument or agreement.** The initial purchaser of each affordable dwelling unit shall execute an instrument or agreement approved by the City which:~~

~~a. Restricts the sale of the unit in compliance with this Chapter during the applicable affordability restriction period;~~

~~b. Contains provisions as the City may require to ensure continued compliance with this Chapter and State law; and~~

~~c. Shall be recorded against the parcel(s) containing the affordable dwelling unit(s).~~

~~3. **Affordability restriction period.** The applicable affordability restriction period shall be in compliance with Section 18.31.040 (Continued Availability of Affordable Units), above.~~

~~F. **Rental housing conditions.** In the case of rental housing developments, the agreement shall provide for the following conditions governing the use of the affordable dwelling units during the affordability restriction period:~~

~~1. **Rules and procedures.** The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining the affordable dwelling units for qualified tenants;~~

~~2. **Annually verify tenant incomes.** Provisions requiring owners to annually verify tenant incomes and maintain books and records to demonstrate compliance with this Chapter;~~

~~3. **Submittal of annual report to the City.** Provisions requiring owners to submit an annual report to the City, which includes the name, address, and income of each person occupying the affordable dwelling units, and which identifies the bedroom size and monthly rent or cost of each unit; and~~

~~4. **Use restriction period.** The applicable affordability restriction period shall be in compliance with Section 18.31.040 (Continued Availability of Affordable Units), above.~~

~~18.31.080 - Control of Affordable Unit Resale~~

~~In order to maintain the availability of the for-sale affordable units constructed in compliance with this Chapter, the following resale conditions shall apply. Any abuse in the resale provisions shall be referred to the City for appropriate action.~~

~~A. **Notice of sale, City option.** Before offering an affordable unit for sale, the seller shall provide written notice to the Director, by certified mail, of their intent to sell. The City or its designee shall be granted an option to purchase the unit for sale, with a maximum of 30 days to exercise the option, and a maximum of 60 days to conclude the purchase, in addition to the time for exercising the option.~~

~~B. **Limitations on resale.** The City shall monitor the resale of affordable units, to ensure compliance with the following requirements.~~

~~1. **Eligible purchasers.** After the first sale, affordable units shall be sold and resold only to households determined by the City to be eligible for the affordable units in compliance with this Chapter.~~

~~2. **Limit on purchase price.** The sales price for an affordable unit shall not exceed the purchase price plus an increase based on the regional area consumer price index, an amount consistent with the increase in the median income since the date of purchase, or the fair market value, whichever is less.~~

~~3. **Additional fees prohibited.** The seller shall not levy or charge any additional fees nor shall any "finders fee" or other monetary consideration be allowed other than customary real estate commissions and closing costs.~~

~~C. **Declaration of restrictions.**~~

~~1. **Attachment of declaration.** The seller of the affordable unit shall attach and legally reference in the grant deed conveying title of the affordable unit a declaration of the restrictions provided by the City, stating the restrictions imposed in compliance with this Section.~~

~~2. **Contents of declaration.** The declaration of restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions required by this Section.~~

~~3. **Right to enforce.** The grant deed shall afford the grantor and the City the right to enforce the declaration of restrictions.~~

CHAPTER 18.32 - INCLUSIONARY HOUSING REQUIREMENTS

Sections:

18.32.010 – Purpose
18.32.020 - Definitions
18.32.030 - Inclusionary Housing Applicability and Exempt Projects
18.32.040 - Inclusionary Housing Requirements
18.32.050 - Alternative Equivalent Action
18.32.060 - Requirements for Inclusionary Units
18.32.070 - Inclusionary Housing Incentives
18.32.080 - Inclusionary Housing Plan and Housing Regulatory Agreement
18.32.090 - Inclusionary Housing Trust Fund
18.32.100 - Enforcement of Affordable Housing Requirements
18.32.110 – Control of Affordable Unit Resale

18.32.010 - Purpose

This Chapter requires the development and availability of affordable housing by ensuring the addition of affordable housing units to the City's housing stock in proportion to the overall increase in new housing units.

A. This Chapter establishes standards and procedures to implement the inclusionary housing requirements identified in Section 18.32.040 (Inclusionary Housing Requirements).

B. This Chapter is intended to implement the requirements of State law (Government Code Sections 65583, 65913, and 65915, et seq.) and the Housing Element of the General Plan, by offering incentives for the development of housing that is affordable to the types of households and qualifying residents identified in Section 18.31.030 (Density Bonus Eligibility).

18.32.020 - Definitions

The specialized and technical terms and phrases used in this Chapter are defined in Article 10 (Glossary), under "Affordable and Inclusionary Housing Requirements."

"Effective date of this Chapter" means the date of Local Coastal Program certification by the Coastal Commission pursuant to Section 13544 of Title 14 of the California Code of Regulations.

18.32.030 – Inclusionary Housing Applicability and Exempt Projects

A. **Applicability.** The requirements of this Chapter apply to all housing developments proposed with four or more dwelling units, except as noted in Subsection B. **The requirements of Chapter 18.32 do not replace, supercede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP. However, Sections 18.32.070, 18.32.090, 18.32.100, and 18.32.110 shall not apply to the review and approval of Coastal Development Permits.**

1. Compliance with the requirements of this Chapter shall be verified by the review authority prior to submittal of an application as part of the Voluntary Conceptual Preliminary Approval of Incentives 18.32.070 (1) process, or as part of the required application process, as applicable.

2. Each inclusionary dwelling unit required by this Chapter shall be sold or rented in compliance with this Chapter.

B. **Exempt projects.** The following residential projects are exempt from the inclusionary housing requirements of this Chapter.

1. **Project with prior approval.** A residential project that has obtained:

   a. Discretionary approval (e.g., a Coastal Development Permit, Use Permit, Design Review, Planned Development Permit, or Variance approval) before the effective date of this Chapter; or

   b. A Building Permit before the effective date of this Chapter; or

   c. A Certificate of Occupancy before the effective date of this Chapter.

2. **Exempt by State law.** A residential project that is exempt from this Chapter by State law.

3. **Project with vested rights.** A residential project for which the City has entered into a development agreement before the effective date of this Chapter, or which otherwise demonstrates a vested right to proceed without complying with this Chapter.

4. **Involuntarily damaged or destroyed dwelling unit.** Any dwelling unit(s) in existence prior to the effective date of this Chapter that is(are) damaged or destroyed by fire or natural catastrophe so long as the square footage and use of the replacement or repaired structure remain(s) the same.

5. **Project Size.** A residential project with no more than ~~one, two, or~~ three dwelling units.

6. **One-bedroom Rental Units**. One-bedroom rental units that are less than 600 square feet in a multi-family development project will be exempt from the inclusionary requirement in order to encourage the production of small rental units.

18.32.040 - Inclusionary Housing Requirements

A. **Number of inclusionary housing units required for multi-family or condominium projects**

1. **Developments of 4 - 6 units.** Must construct one **of the 4-6 units as a** "small secondary unit" as defined in Article 10 (Glossary) or one **of the 4-6 units as an** inclusionary unit. The affordable unit shall be subject to all the requirements of inclusionary units in compliance with Section 18.32.060 (Requirements for Inclusionary Units).

2. **Developments of 7 units or greater.** Must construct 15 percent of all new dwelling units in a residential development as affordable units subject to all requirements in compliance with this Chapter. If the calculation of the required number of units results in a fraction of inclusionary units of 0.5 or greater, the developer must construct the next higher whole number of affordable units or perform an alternative equivalent action approved by the Council in compliance with Section 18.32.050 (Alternative Equivalent Action) for the fraction. The rounded unit may be built at the higher required income level, as described in Subsection 18.32.060.A. (Requirements for Inclusionary Units, Affordability Requirements). If the calculation of the required number of units results in a fraction of affordable units of less than 0.5, the developer may round down to the next lower number of affordable units. The rounded down unit may be built at the higher required income level, as described in Subsection 18.32.060.A. (Requirements for Inclusionary Units, Affordability Requirements).

B. **Inclusionary requirement for subdivision.**

1. If a proposal involves the subdivision of a residentially zoned parcel of five acres or more, the inclusionary requirement shall be met through the development of affordable units if the proposed project includes housing development, or if the project does not include housing development through the dedication of 15 percent of the land for the development of affordable units.

2. The vacant land shall be dedicated to the City or its designated agency for the construction of affordable units. Land donations must have the appropriate General Plan designation, zoning, and development

standards to permit the feasible development of affordable units and be served by adequate public facilities and infrastructure. ~~If land donations do not have the appropriate General Plan designation, zoning, and development standards to permit the feasible development of affordable units, the City shall have the flexibility to permit standards which will allow the feasible development of affordable units.~~

3. The satisfaction of the inclusionary requirement for major/minor subdivisions shall be included in and described on the tentative map at the time of application. The description shall include acreage and location of the dedicated land.

C. The provisions of this Section do not replace, supercede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.

18.32.050 - Alternative Equivalent Action

A developer of a residential project may comply with the requirements of Subsection 18.32.040.A (Number of units required), above by an alternative equivalent action approved by the Council in compliance with this Section.

A. **Scope of alternative proposals.** A proposal for an alternative equivalent action may include:

1. **Construction of secondary units.** For single-family projects of less than 30 units, a developer may build small secondary units in-lieu of inclusionary units. Two "small secondary units" are equal to one inclusionary unit. Single-family projects with 30 units or more may only utilize secondary units as an alternative equivalent action for the first 30 units of the project; or

2. **Dedication of vacant land.** Land donations for affordable housing must meet the requirements described in Subsection 18.31.030.E (Density Bonus Eligibility); or

3. **Construction of inclusionary units on another site subject to Council approval**; or

4. **Conversion of existing units.** The acquisition, substantial rehabilitation, and enforcement of required rental/sales price restrictions on existing dwelling units in compliance with this Chapter.

B. **Content of proposal.** A proposal for an equivalent action shall show how the alternative action proposed will further affordable housing opportunities in the City to an equal or greater extent than compliance with the requirements of Subsection 18.32.040.A (Number of units required). If required, the applicant will pay for an independent third party review/analysis of the equivalence of the proposed alternative action.

C. **Review and approval.** A proposal for an alternative equivalent action shall require Use Permit approval in compliance with this Section, except that the review authority shall be the Council, with a recommendation by the Commission. Review and approval may occur concurrent with project approval by the Council if the Council is the final review authority for the project. **Except for donations of land, a proposed alternative equivalent action will also require a Coastal Development Permit.**

D. **Criteria for approval.** A proposal for an alternative equivalent action to satisfy the requirements of this Chapter may be approved at the Council's sole discretion, if the Council first determines that the alternative action will further affordable housing opportunities in the City to an equal or greater extent than compliance with the requirements of Subsection 18.32.040.A (Number of units required). **In reviewing a proposed alternative equivalent action, the City shall consider all feasible alternative equivalent actions and their effects on coastal resources. The City shall only grant an alternative equivalent action if the City determines that the alternative equivalent action requested by an applicant pursuant to this section will not have any adverse effects on coastal resources. The City may grant approval of an alternative equivalent action that does not have an adverse effect on coastal resources. If all feasible alternative equivalent actions would have an adverse effect on coastal resources, the City shall not grant any alternative equivalent actions.**

18.32.060 - Requirements for Inclusionary Units

A. **Affordability Requirements.**

1. **Rental units.**

a. One-third of the inclusionary units that are required to be constructed along with rental market-rate units shall be available at affordable rents to very low-income households whose annual household income does not exceed 50 percent of area median income; one-third of units shall be made available at affordable rents that are affordable to low-income households whose annual household income does not exceed 80 percent of area median income; and, the remaining one-third of the inclusionary units shall be available at affordable rents to moderate households whose annual household income does not exceed 120 percent of area median income with the first priority for rental given to essential public service employees within the City as defined in Article 10 (Glossary), who meet income eligibility requirements.

b. Where the number of required inclusionary units results in fractional portions of units at each income level, the small fractional portion should be added to the larger fractional portion to achieve whole numbers of unit obligation. Projects shall prioritize the development of inclusionary units, where fractional units are combined to achieve a whole unit obligation, first to moderate income, then low income, and finally very-low income households.

c. With respect to any particular rental project, the Council may waive all or a portion of the affordability requirements identified in Subsection 18.32.040.A (Number of units required) above, to the extent necessary to avoid a hardship or taking, upon a showing by the applicant that imposition of the requirement on the residential project will cause undue hardship or legal taking under the California or United States constitutions, and that the residential project will contribute significantly to affordable housing opportunities in the City. Waivers are not applicable to projects developing ownership units.

2. **For-sale units.**

a. One-half of the inclusionary units that are required to be constructed in connection with the construction of market-rate units intended for owner-occupancy shall be available at sales prices affordable to households whose annual household income does not exceed 100 percent of area median income as defined in Article 10 (Glossary). The remaining one-half of the required affordable inclusionary units shall be available at sales prices affordable to moderate-income households whose annual household income does not exceed 120 percent of area median income with priority given to essential public service employees within the City as defined in Article 10 (Glossary), who meet all other income eligibility requirements.

b. Where the number of required inclusionary units results in fractional portions of units at each income level, the small fractional portion should be added to the larger fractional portion to achieve whole numbers of unit obligation at each income level. Projects shall prioritize the development of inclusionary units, where fractional units are combined to achieve a whole unit obligation, first to moderate income and then median income households.

c. Small secondary units that are built in lieu of inclusionary for-sale units shall be rented at a rent that is affordable to moderate-income households whose annual household income does not exceed 120 percent of area median income, with priority given to essential public service employees within the City as defined in Article 10 (Glossary), who meet all other income eligibility requirements. These requirements will be maintained through covenants and/or deed restrictions.

d. Small secondary units that are built in lieu of for-sale units, shall be rented by the new home owner at a rent that is affordable to moderate-inocome households whose annual income does not exceed 120 percent of area median income with priority given to essential public service employees within the City as defined in Article 10 (Glossary), who meet all other income eligibility requirements. These requirements will be maintained through covenants and/or deed restrictions.

B. **Location and Type of Affordable Units.** Required inclusionary units shall be:

1. **Dispersed.** Dispersed throughout the residential project or, subject to the approval of the Director, may be clustered within the residential project when this furthers affordable housing opportunities;

2. **Proportional.** The type and location of affordable units should be proportional to the market rate dwelling units in number of bedrooms and location within the project; and

3. **Comparable.** Inclusionary units should be comparable with the design and use of the market rate dwelling units in terms of appearance, materials, and finished quality. Subject to the approval of the Director, the square-footage of the affordable units and the interior features in the affordable units need not be the same as, or equivalent to those in market rate dwelling units in the same residential project, so long as they are of good quality and are consistent with contemporary standards for new housing.

C. **Timing and Phasing of Unit Construction.** All inclusionary dwelling units within a residential project shall be constructed concurrent with, or before, the construction of the market rate dwelling units. If the City approves a phased project, the required inclusionary dwelling units shall be provided within each phase of the residential project with their number in proportion to the total number of units in the phase in relation to the total number of units in the project, or phased in another sequence acceptable to the City as approved by the Council. Certificates of occupancy will be issued for increments of no more than seven market rate units before Certificate of Occupancy are issued for the corresponding affordable unit(s).

D. **Continued Affordability.** The procedures to maintain the continued affordability of the inclusionary dwelling units built to fulfill the requirements of this Chapter shall be included in the planning permit application and shall be subject to approval by the City.

1. **Restrictions to ensure continued affordability.**

a. **Minimum time for continued affordability.** Each required inclusionary unit shall be reserved for very low to moderate income households in the ratios required by Subsection A (18.32.060). at the applicable affordable housing cost for a minimum of 45 years in the case of units for sale; and for a minimum of 55 years in the case of rental units in accordance with the State Community Redevelopment Law, except where the Council approves an alternative restriction that it determines will be equally effective in achieving the affordable housing goals and objectives of the Housing Element. The continued availability of moderate income units in a condominium project shall be maintained for a minimum of 45 years.

b. **Inclusionary housing agreements required.** The recordation of the Inclusionary Housing Regulatory Agreement, as described in Section 18.32.080, shall take place at the same time as the final or parcel map or, where a map is not being processed, before issuance of Certificates of Occupancy for the affordable dwelling units. The agreement must be accepted by the Director and be consistent with the requirements of this Chapter.

2. **Resale restrictions to ensure continued affordability.** In order to maintain the availability of the for-sale affordable units constructed in compliance with this Chapter, the following resale conditions shall apply.

a. **Written notice of intent to sell, City option.** The resale restrictions shall provide that, before offering an inclusionary unit for sale, the seller shall provide written notice to the Director, by certified mail, of their intent to sell. The City or its designee shall be granted an option to purchase the unit for sale, with a maximum of 60 days to exercise the option, and a maximum of 120 days to conclude the purchase, in addition to the time for exercising the option, at the maximum price which could be charged to an eligible household.

b. **Maximum sales price.** The maximum sales price for the resale of an inclusionary unit for sale shall not exceed the seller's purchase price, adjusted for the percentage increase in area median income since the seller's purchase, plus the value of substantial structural or permanent fixed improvements to the property which have been pre-approved by the Director, plus the cost of reasonable seller's broker fee, as determined by the Director. For purposes of this Subparagraph, area median income shall be calculated based upon the household size used to determine the original affordable sales price.

c. **Eligible purchasers.** After the first sale, affordable units shall be sold and resold only to households determined by the City to be eligible for the affordable units in compliance with this Chapter. Preference shall go to those households with the highest affordability rating based upon the eligibility requirements described in Subsection 3 below.

d. **Additional fees prohibited.** The seller shall not levy or charge any additional fees nor shall any "finder's fee" or other monetary consideration be allowed other than customary real estate commissions and closing costs.

e. **Declaration of restrictions.** The seller of the affordable unit shall attach and legally reference in the grant deed conveying title of the affordable unit a declaration of the restrictions provided by the City, stating the restrictions imposed in compliance with this Chapter. The declaration of restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions required by this Chapter. The grant deed shall afford the grantor and the City the right to enforce the declaration of restrictions.

f. **Prohibitions.** Prohibitions include, but are not limited to, no eligible purchaser or eligible renter of an affordable inclusionary unit shall be permitted to lease or sublease the affordable unit without prior written consent of the City, said consent being contingent upon a showing of hardship circumstances.

3. **Eligibility of renters and purchasers.**

a. No household shall be allowed to rent, purchase, or occupy an affordable unit, unless the City or its designee has approved the household's eligibility, or has failed to make a determination of eligibility within the time or other limits provided by an inclusionary housing agreement or resale restrictions.

b. Eligible potential occupants of affordable units will be qualified on the basis of household income at the time of rental or purchase as defined in this Chapter, the relationship between household size and the size of the available units, and any further criteria required by law and/or established by the Council. The affordable housing developer shall use an equitable selection method established in conformance with the terms of this Chapter and in compliance with State and Federal law. Selection of qualified households shall be based on the affordable housing priorities established below:

1. **Priority 1.** Essential public service employees, City of Fort Bragg employees, and child care workers employed in Fort Bragg. Forty percent of the available Affordable Units shall be first made available to any qualified essential public service employees. If

essential public service employees do not utilize 40 percent of the affordable units, then they shall be made available to other qualified Priority 1 applicants, prior to being made available to Priority 2 applicants.

2. **Priority 2.** Other qualified renters or purchasers who live in Fort Bragg and who are also employed within Fort Bragg City limits. When the list of Priority 2 applicants is exhausted, units may be rented or sold to Priority 3 applicants.

3. **Priority 3.** Other qualified renters or purchasers who are residents of Fort Bragg City limits or who work in Fort Bragg City limits.

Essential public service employees include: City of Fort Bragg sworn police officers, Fort Bragg Fire Protection Authority fire fighters, Fort Bragg Unified School District teachers, and Mendocino Coast District Hospital health care workers.

c. The City or its designee will maintain a list of priority households. Households selected to occupy the inclusionary units shall be selected first from this priority list. Priority households will be given an affordability rating based on the eligibility standards. However, placement on this list will not serve as the qualification for an inclusionary unit, rather it is a resource that developers and owners are encouraged to use to identify priority households, which they can then qualify.

E. **Annual monitoring**

1. Rental and for-sale units will be monitored on an annual basis by the City (or its designee) to ensure that units have not been re-rented or re-sold to an unqualified tenant or owner (on the basis of income). Property owners of rental projects will self-certify that they are renting affordable units to eligible households, and the City reserves the right to audit these self-certifications.

2. Monitoring may be achieved by a third party, may include self-certification, may involve review of utility records, or may include any other reasonable method of monitoring as approved by the Director.

3. All tenants and owners that initially qualified for inclusionary housing will retain their right to inhabit their inclusionary housing unit should their income increase above qualifying levels.

F. **Annual monitoring and transfer fees.**

1. **Rental units.** For each rental inclusionary unit, the property owner will be required to pay an annual monitoring fee for the term of required affordability. The fee shall be set by City Council Resolution from time to time and shall be specified in the required Inclusionary Housing Agreement.

2. **For sale units.** For each inclusionary unit for sale, each home owner will be required to pay a transfer fee in an amount set by City Council Resolution from time to time for a change of ownership during the term of required affordability.

F. **Discretionary permit and map requirements for projects subject to this chapter.**

1. **Discretionary permits.** Each discretionary permit for a residential project that is subject to this Chapter and approved after the effective date of this Chapter shall contain a condition detailing the method of compliance with this Chapter.

2. **Final or Parcel Maps.** Each Final and Parcel Map shall have a written notation indicating that compliance with the requirements of this Chapter shall be met for each parcel created by the map, unless the requirements of this Chapter have been satisfied by land dedication or an alternative equivalent action approved by the City.

G. **Requirements for Certificate of Occupancy or Final Building Inspection.** A temporary or permanent Certificate of Occupancy shall not be issued, a Final Building Inspection approved, or authorized for any new dwelling unit in a residential project until:

1. The developer has satisfactorily completed the requirements of this Chapter (e.g., on-site construction of affordable units or alternative equivalent actions); or

2. The developer has demonstrated to the satisfaction of the Director that an exemption as described in Section 18.32.030 (Inclusionary Housing Applicability and Exempt Projects) is appropriate.

18.32.070 – Inclusionary Housing Incentives

A. **Process for describing incentives.** A residential development that complies with the inclusionary housing requirements in Subsection 18.32.040.A. (Number of units required), through the actual construction of inclusionary units, shall be entitled to the following procedures and incentives.

1. **Voluntary conceptual preliminary approval of incentives.**

a. Before the submittal of any formal application for a General Plan amendment, rezoning, **Coastal Development Permit,** Use Permit, Tentative Map, or other permit or entitlement describing and specifying the location, number, size, and type of the housing development, the developer may submit a letter of request for incentives identifying any requests for density bonus, incentives, modifications, or waivers of development or zoning standards necessary to make construction feasible for the proposed development, including the inclusionary units. The Council shall review the preliminary development proposal and the letter of request for incentives within 90 days of submittal at a public hearing and indicate conceptual preliminary approval or disapproval of the proposed development and request for incentives, modifications, or waivers of development or zoning standards.

b. Preliminary approval or disapproval shall not bind the Council, but rather shall be subject to the discretion of the Council to modify its preliminary recommendations based upon a full review of all pertinent project information, including any CEQA analysis, presented at the public hearing on the subject application.

c. The provisions of this Section do not replace, supercede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.

2. **Priority processing of applications.**

a. Project applications that include the construction of inclusionary units shall be expedited by each City department involved with the application.

b. An application for a project that includes the construction of inclusionary rental units shall be processed before applications including inclusionary owner-occupied units.

~~B. **Additional incentives.** The Council has adopted by resolution a set of pre-approved incentives, which may be amended from time to time and which may be selected as part of the development of inclusionary housing. In addition, State Density Bonus Law entitles a qualified project to one of a variety of incentives as outlined in Section 18.31.040.~~

18.32.080 - Inclusionary Housing Plan and Housing Regulatory Agreement

A. **Inclusionary Housing Plan.** The applicant for a residential project that is subject to this Chapter shall submit an Inclusionary Housing Plan along with the submittal of the Tentative Map detailing how the provisions of this Chapter will be implemented for the proposed residential development project. The Inclusionary Housing Plan shall be considered and acted upon by the review authority at the same time as the residential development that is the subject of the plan.

B. **Affordable Housing Regulatory Agreement.** The applicant shall also execute and cause to be recorded an Affordable Housing Regulatory Agreement ("agreement") to implement the provisions of the Inclusionary Housing Plan, except where compliance with this Chapter is through Section 18.32.050 (Alternative Equivalent Action). The Affordable Housing Regulatory Agreement shall also include provisions for the use of the density bonus, if applicable.

1. **Agreement contents.** The agreement shall include at least the following information:

   a. **Number of dwelling units.** The total number of dwelling units approved for the housing development project, including the number of affordable dwelling units;

   b. **Description and location of affordable units.** The location, unit sizes (in square feet), and number of bedrooms of the affordable dwelling units;

   c. **Use of property.** A description of the use of the property stating that the affordable units shall be used to provide housing to qualifying persons under the provisions of this Chapter;

   d. **Description of targeted income group.** A description of the household income group to be accommodated by the housing development project, and the standards and methodology for determining the corresponding affordable rent or affordable sales price and housing cost consistent with HUD Guidelines and this Chapter;

   e. **Non-discrimination clause.** The clause shall state that there shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, sex, martial status, sexual-orientation, national origin or ancestry in the sale, transfer, use, occupancy, or enjoyment of an affordable unit, or any part thereof. Nor shall any developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, use, or occupancy of purchasers or occupants of the affordable units, or parts thereof;

   f. **Length of affordability.** Description of the affordability restrictions for the affordable dwelling units in compliance with Subsection 18.32.060.D. (Continued Affordability), above;

   g. **Description of concessions and/or incentives.** A description of the additional concessions and/or incentives being provided by the City;

   h. **Remedies for breach of the agreement.** A description of the remedies for breach of the inclusionary housing and/or density bonus agreement by the owners, developers, and/or successors-in-interest of the development project;

   i. **Project implementation plan.** Plan shall include the process of tenant and purchaser selection, and disclosure in accordance with the requirements of this Chapter; and

   j. **Other provisions.** Other provisions to ensure successful implementation and compliance with this Chapter.

2. **Agreement provisions.** The agreement shall include at least the following provisions:

   a. **Continuing right-of-first-refusal.** The developer shall give the City the continuing right-of-first-refusal to lease or purchase any or all of the affordable dwelling units at the maximum sales price determined in accordance with Subsection 18.32.060.D.2.b. (Requirements for Inclusionary Units, Maximum sales price);

   b. **Written approval of City required prior to transfer of unit.** The deeds to the affordable dwelling units shall contain a covenant stating that the developer or successors-in-interest shall not assign, lease, rent, sell, sublet, or otherwise transfer any interests for the affordable dwelling units without the prior written approval of the City;

   c. **Confirmation of price by City.** When providing the written approval, the City shall confirm that the price (rent or sale) of the affordable dwelling unit is consistent with the limits established for low, very low, or moderate income households, as published by HUD;

   d. **Occupied by eligible households.** The City shall have the authority to enter into other agreements with the developer, or purchasers of the affordable dwelling units, to ensure that the required dwelling units are occupied by eligible households for the minimum time of continued affordability as described in Subsection 18.32.060.D.1.a. (Requirements for Inclusionary Units, Minimum time for Continued Affordability;

   e. **Enforcement of compliance.** Applicable deed restrictions, in a form satisfactory to the City Attorney, shall contain provisions for the enforcement of owner or developer compliance;

   f. **Failure to comply.** Any default or failure to comply may result in daily penalties, liens, foreclosure, specific performance, or withdrawal of the Certificates of Occupancy; and

   h. **Recovery of all City-related costs.** In any action taken to enforce compliance with deed restrictions, the City Attorney shall, if compliance is ordered by a court of competent jurisdiction, take all action that may be allowed by law to recover all of the City's costs of action including legal services.

3. **For-sale housing conditions.** In the case of for-sale housing developments, the agreement shall provide for the following conditions governing the initial sale and use of the affordable dwelling units during the applicable affordability restriction period:

   a. **Eligible and qualified residents.** The affordable dwelling units shall be owner-occupied by eligible moderate or median income households, or by qualified residents in the case of senior housing;

   b. **Mandatory contents of instrument or agreement.** The initial purchaser of each affordable dwelling unit shall execute an instrument or agreement approved by the City which:

      1. Restricts the sale of the unit in compliance with this Chapter during the applicable affordability restriction period. If the unit is sold to a non-qualified buyer, the City shall be entitled to receive the amount of the sales price which exceeds the maximum sales price less reasonable costs of the sale plus the value of substantial structural or permanent fixed improvements;

      2. Restricts the rental use of property during the restriction period;

      3. Contains provisions as the City may require to ensure continued compliance with this Chapter and State law; and

4. Shall be recorded against the parcel(s) containing the affordable dwelling unit(s).

c. **Affordability restriction period.** The applicable affordability restriction period shall be in compliance with Subsection 18.32.060.D (Requirements for Inclusionary Units, Continued Affordability).

4. **Rental housing conditions.** In the case of rental housing developments, the agreement shall provide for the following conditions governing the use of the affordable dwelling units during the affordability restriction period:

a. **Rules and procedures.** The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining the affordable dwelling units for qualified tenants;

b. **Annually verify tenancy.** Provisions requiring owners to annually verify tenants living in units are the same tenant that were originally qualified to live in the units, and maintain books and records to demonstrate compliance with this Chapter;

c. **Submittal of annual report to the City.** Provisions requiring owners to submit an annual report to the City, which includes the name, address, and income of each person occupying the affordable dwelling units, and which identifies the bedroom size and monthly rent or cost of each unit; and

d. **Use restriction period.** The applicable affordability restriction period shall be in compliance with Subsection 18.32.060.D (Requirements for Inclusionary Units, Continued Affordability).

5. **Execution of agreement.**

a. **Timing of approval and recordation.** The approval and recordation of the agreement shall take place at the same time as the final or parcel map or, where a map is not being processed, before issuance of Certificates of Occupancy for the affordable dwelling units.

b. **Binding on all parties.** The agreement shall be binding on all future owners, developers, and/or successors-in-interest.

C. **Effect of plan and agreement.** After the approval of an Inclusionary Housing Plan and the recording of an Affordable Housing Regulatory Agreement, each inclusionary housing unit shall be constructed as required, and shall be sold or rented, and maintained as an affordable unit, in compliance with the plan and agreement.

18.32.090 - Inclusionary Housing Trust Fund

A. **Inclusionary Housing Trust Fund established.** There is hereby established the City of Fort Bragg Inclusionary Housing Trust Fund (the "Housing Fund"). Separate accounts within the Housing Fund may be created as necessary to avoid commingling as required by law, or as deemed appropriate to further the purposes of the Fund.

B. **Use of funds.** The City's use of the Housing Fund shall comply with the following requirements.

1. Monies deposited in the Housing Fund along with any interest earnings shall be used solely to increase and improve the supply of housing affordable to households of very low, low, and moderate income, including:

a. The acquisition of property and property rights;

b. The cost of construction including costs associated with planning, administration, and design, actual building or installation, and any other costs associated with the construction or financing of affordable housing;

c. Reimbursement to the City for costs if funds were advanced by the City from other sources; and

d. Reimbursement of developers or property owners who have been required or allowed to install facilities that are beyond that which can be attributed to a specific development.

2. To the maximum extent possible, all monies should be used to provide for additional affordable housing and services.

3. No portion of the Housing Fund may be diverted to other purposes by way of loan or otherwise.

18.32.100 - Enforcement of Affordable Housing Requirements

A. **Enforcement by City Attorney.** The City Attorney shall enforce the provisions of this Chapter and Chapter 18.31 and all implementing regulatory agreements and resale controls placed on the affordable units by civil action, injunctive relief, and any other proceeding or method allowed by law.

B. **Remedies cumulative not exclusive.** The remedies available to the City shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity.

C. **Recovery of costs.** In any action to enforce this Chapter, or an Affordable Housing Regulatory Agreement recorded in compliance with this Chapter, the prevailing party in such action shall be entitled to recover its reasonable attorney's fees and related costs.

18.32.110 - Control of Affordable Unit Resale

In order to maintain the availability of the for-sale affordable units constructed in compliance with this Chapter, the following resale conditions shall apply. Any abuse or violation of the resale provisions shall be referred to the City Attorney for appropriate action.

A. **Notice of sale, City option.** Before offering an affordable unit for sale, the seller shall provide written notice to the Director, by certified mail, of their intent to sell. The City or its designee shall be granted an option to purchase the unit for sale, with a maximum of 60 days to exercise the option, and a maximum of 120 days to conclude the purchase, in addition to the time for exercising the option.

B. **Limitations on resale.** The City shall monitor the resale of affordable units, to ensure compliance with the following requirements.

1. **Eligible purchasers.** After the first sale, affordable units shall be sold and resold only to households determined by the City to be eligible for the affordable units in compliance with this Chapter.

2. **Limit on purchase price.** The sales price for an affordable unit shall not exceed the purchase price plus an increase based on the regional area consumer price index, an amount consistent with the increase in the median income since the date of purchase, or the fair market value, whichever is less.

3. **Additional fees prohibited.** The seller shall not levy or charge any additional fees nor shall any "finders fee" or other monetary consideration be allowed other than customary real estate commissions and closing costs.

C. **Declaration of restrictions.**

1. **Attachment of declaration.** The seller of the affordable unit shall attach and legally reference in the grant deed conveying title of the affordable unit a declaration of the restrictions provided by the City, stating the restrictions imposed in compliance with this Section.

2. **Contents of declaration.** The declaration of restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions required by this Section.

3. **Right to enforce.** The grant deed shall afford the grantor and the City the right to enforce the declaration of restrictions.

CHAPTER 18.32 - INCLUSIONARY HOUSING REQUIREMENTS

[CITY REQUESTED MOD]

Sections:

~~18.32.010 - Purpose~~
~~18.32.020 - Definitions~~
~~18.32.030 - Applicability and Exempt Projects~~
~~18.32.040 - Inclusionary Housing Trust Fund~~
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~~18.32.070 - Inclusionary Housing In Lieu Fee~~
~~18.32.080 - Requirements for Inclusionary Units~~
~~18.32.090 - Inclusionary Housing Incentives~~
~~18.32.100 - Inclusionary Housing Plan and Housing Agreement~~
~~18.32.110 - Enforcement of Inclusionary Housing Requirements~~

~~18.32.010 - Purpose~~

~~This Chapter requires the development and availability of affordable housing by ensuring the addition of affordable housing units to the City's housing stock in proportion with the overall increase in new housing units.~~

~~A. This Chapter establishes standards and procedures to implement the inclusionary housing requirements identified in Section 18.32.050 (Inclusionary Housing Requirements), below.~~

~~B. This Chapter offers incentives identified in Section 18.32.090 (Inclusionary Housing Incentives), below for the development of affordable housing units.~~

~~18.32.020 - Definitions~~

~~The specialized and technical terms and phrases used in this Chapter are defined in Article 10 (Glossary), under "Affordable and Inclusionary Housing Requirements."~~

~~18.32.030 - Applicability and Exempt Projects~~

~~A. **Applicability.** The requirements of this Chapter apply to all housing developments proposed with five or more dwelling units, except as noted in Subsection B.~~

~~1. Compliance with the requirements of this Chapter shall be verified by the review authority prior to, or as part of the approval of the Use Permit, Minor Use Permit, and/or Tentative Map for the housing development, as applicable.~~

~~2. Each inclusionary dwelling unit required by this Chapter shall be sold or rented in compliance with this Chapter.~~

~~B. **Exempt projects.** The following residential projects are exempt from the inclusionary housing requirements of this Chapter.~~

~~1. **Project with prior approval.** A residential project that has obtained:~~

~~a. Discretionary approval (e.g., a Coastal Development Permit, Use Permit, Design Review, Planned Development Permit, or Variance, approval) before the effective date of this Chapter;~~

~~b. A Building Permit before the effective date of this Chapter; or~~

~~c. A Certificate of Occupancy before the effective date of this Chapter.~~

~~2. **Exempt by State law.** A residential project that is exempt from this Chapter by State law.~~

~~3. **Project with vested rights.** A residential project for which the City has entered into a development agreement before the effective date of this chapter, or which otherwise demonstrates a vested right to proceed without complying with this chapter.~~

~~4. **Involuntarily damaged or destroyed dwelling unit.** Any dwelling unit that is damaged or destroyed by fire or natural catastrophe so long as the square footage and use of the replacement or repaired structure remains the same.~~

~~18.32.040 - Inclusionary Housing Trust Fund~~

~~A. **Inclusionary Housing Trust Fund established.** There is hereby established the City of Fort Bragg Inclusionary Housing Trust Fund (the "Housing Fund"). Separate accounts within the Housing Fund may be created as necessary to avoid commingling as required by law, or as deemed appropriate to further the purposes of the Fund.~~

~~B. **Use of funds.** The City's use of the Housing Fund shall comply with the following requirements.~~

~~1. Monies deposited in the Housing Fund along with any interest earnings shall be used solely to increase and improve the supply of housing affordable to households of very low, low, and moderate income, including:~~

~~a. The acquisition of property and property rights;~~

~~b. The cost of construction including costs associated with planning, administration, and design, actual building or installation, and any other costs associated with the construction or financing of affordable housing;~~

~~c. Reimbursement to the City for costs if funds were advanced by the City from other sources; and~~

~~d. Reimbursement of developers or property owners who have been required or allowed to install facilities that are beyond that which can be attributed to a specific development.~~

~~2. To the maximum extent possible, all monies should be used to provide for additional affordable housing and services.~~

~~3. Monies may also be used to cover reasonable administrative expenses not reimbursed through processing fees, including reasonable consultant and legal expenses related to the establishment and/or administration of the Housing Fund and reasonable expenses for administering the process of calculating, collecting, and accounting for inclusionary fees and any deferred City fees authorized by this Chapter.~~

~~4. No portion of the Housing Fund may be diverted to other purposes by way of loan or otherwise.~~

~~18.32.050 - Inclusionary Housing Requirements~~

~~A. **Number of units required.** At least 15 percent of all new dwelling units in a residential development shall be affordable units, which shall be constructed and completed at the same time as the associated market rate units. If the calculation of the required number of units results in fractions of affordable units, including fractions resulting from construction of less than seven dwelling units, the developer may elect to construct the next higher whole number of affordable units, perform an alternative equivalent action approved by the Council in compliance with Section 18.32.060 (Alternative Equivalent Action), or pay an in-lieu fee in compliance with Section 18.32.070 (Inclusionary Housing In Lieu Fee), for the fraction.~~

~~B. **Timing of construction.** All inclusionary dwelling units within a residential project shall be constructed concurrent with, or before, the construction of the market rate dwelling units. If the City approves a phased project, the required inclusionary dwelling units shall be provided within each phase of the residential project, with their number in proportion to the total number of units in the phase in relation to the total number of units in the project.~~

~~18.32.060 - Alternative Equivalent Action~~

~~A developer of a residential project may comply with the requirements of Subsection 18.32.050.A (Number of units required), above by an alternative equivalent action, approved by the Council in compliance with this Section.~~

~~A. **Scope of alternative proposals.** A proposal for an alternative equivalent action may include: the dedication of vacant land; the construction of inclusionary units on another site; or the acquisition and enforcement of required rental/sales price restrictions on existing standard dwelling units in compliance with this Chapter.~~

~~B. **Content of proposal.** A proposal for an equivalent action shall show how the alternative action proposed will further affordable housing opportunities in the City to an equal or greater extent than compliance with the requirements of Subsection 18.32.050.A (Number of units required), or payment of the appropriate in lieu housing fee identified Section 18.32.070 (Inclusionary Housing In Lieu Fee).~~

~~C. **Review and approval.** A proposal for an alternative equivalent action shall require Use Permit approval in compliance with Section 18.71.060, except that the review authority shall be the Council, with a recommendation by the Commission. Review and approval may occur concurrent with project approval by the Council, if the Council is the final review authority for the project.~~

~~D. **Criteria for approval.**~~

~~1. **Single-family project.** A proposal for a single-family residential project shall be approved by the Council if the Council first determines that the alternative action will further affordable housing opportunities in the City to an equal or greater extent than payment of the housing in lieu fee.~~

~~2. **Multi-family project.** A proposal for a multi-family project may be approved at the Council's sole discretion, if the Council first determines that the alternative action will further affordable housing opportunities in the City to an equal or greater extent than compliance with the requirements of Subsection 18.32.050 A. (Number of units required).~~

~~18.32.070 - Inclusionary Housing In Lieu Fee~~

~~The payment of a fee in-lieu of providing required inclusionary units may be approved in compliance with the following requirements.~~

~~A. **Single-family project.** A developer of a single-family housing development may comply with the requirements of Subsection 18.32.050 A. (Number of units required), by payment of an in-lieu fee.~~

~~B. **Multi-family project.** A developer of a multi-family housing project may propose to meet the requirements of Subsection 18.32.050.A (Number of units required), by submitting the following with the application for either the discretionary permit for the project or the first Building Permit for the project whichever occurs first:~~

~~1. A request to pay the in lieu fee along with a report identifying all overriding conditions impacting the project that prevent the developer from constructing the inclusionary units;~~

~~2. Sufficient independent data, including appropriate financial information, that supports the developer's claim that it is not feasible to construct the required inclusionary units; and~~

~~3. A detailed analysis of why the incentives identified in Section 18.32.090 (Inclusionary Housing Incentives), cannot avoid the circumstances identified by the developer that prevent the construction of the inclusionary units.~~

~~C. **Review and approval of in-lieu fee request.**~~

~~1. **Review of proposal, and recommendation.** The Director and the City Manager shall review all requests and prepare a recommendation for the Council.~~

~~2. **Findings required for Council approval.** Each request shall be considered on a case-by-case basis by the Council and may be approved if the Council first finds that there are overriding conditions impacting the project that prevent the developer of a multi-family project from constructing the required inclusionary units, and that payment of the in-lieu fee will further affordable housing opportunities.~~

~~D. **Timing of payment.** An approved in-lieu fee shall be paid before the issuance of the first Building Permit for the project, or upon execution of the City's secured agreement recorded against the property, prior to the first Final Building Inspection for a structure within the project. The City Manager is hereby authorized to execute the agreement on behalf of the City.~~

~~E. **Calculation of in-lieu fee.** The inclusionary housing in lieu fee shall be a percentage of the projected construction costs of market-rate dwelling units. The amount and calculation of the in lieu fee shall be established by the City's Fee Schedule.~~

~~1. **Construction costs defined.** For the purpose of this Chapter, "construction costs" shall mean the estimated cost per foot of construction, as established by the Building Official for use in setting regulatory and Building Permit fees, multiplied by the total floor area in square feet to be constructed for each dwelling unit, minus the floor area of a garage.~~

~~2. **Calculation of fee for attached units.** For attached single-family residential and rental-residential development projects, construction costs shall be calculated separately for each dwelling unit and the appropriate fee paid for each unit within the residential project.~~

3. **Method of payment.** Payment of a required in-lieu fee may be either in cash, or upon a recommendation of the Director and City Manager and approval of the Council, by an alternative that will provide the City with a value equal to or greater than the amount of the required in-lieu fee.

18.32.080 - Requirements for Inclusionary Units

A. **Rental units.**

1. **Affordability requirements.**

a. One-half of the inclusionary units that are required to be constructed along with rental market-rate units shall be available at affordable rents to very low-income households, and the remaining one-half of the inclusionary units shall be available at affordable rents to low-income households with the first priority for rental being to "essential public service employees" within the City as defined in Article 10 (Glossary), who meet income eligibility requirements.

b. Where the number of required inclusionary units is an odd number, the number of units constructed for very low-income households may be one less than the number of units constructed for low-income households.

2. **Waiver of affordability requirements.** With respect to any particular rental project, the Council may, upon the recommendation of the Director, waive all or a portion of the affordability requirements identified in Subsection 18.32.050 A. (Number of Units Required), above to the extent necessary to avoid a hardship or taking, upon a showing by the applicant that imposition of the requirement on the residential project will cause undue hardship or legal taking under the California or United States constitutions, and that the residential project will contribute significantly to affordable housing opportunities in the City.

B. **Units for sale.**

1. **Affordability requirements.**

a. One-half of the inclusionary units that are required to be constructed in connection with the construction of market-rate units intended for owner-occupancy shall be available at sales prices affordable to households whose annual household income does not exceed 100 percent of median income.

b. If one-half of the inclusionary units required at a sales price not exceeding 100 percent of median income are available at sales prices affordable to households whose annual household income does not exceed 80 percent of median income, the developer shall be entitled to a density bonus of five percent for the proposed residential development.

2. **Alternative financial incentives.** As an alternative to receiving a density bonus of five percent, a developer request from the City another incentive of a financial value equal to the density bonus. Each request shall be considered on a case-by-case basis by the Council, and may be approved if the Council first determines that the alternative incentive will further affordable housing opportunities.

3. **Affordable sales price requirements.**

a. The remaining one-half of the required affordable inclusionary units shall be available at sales prices affordable to moderate-income households with priority given to essential public service employees within the City as defined in Article 10 (Glossary), who meet all other income eligibility requirements.

b. Where the number of required inclusionary units is an odd number, the number of units affordable to moderate income households may be one greater than the number affordable at or below 100 percent of median income.

~~C. **Location within project, relationship to non-inclusionary units.** Required inclusionary units shall be:~~

~~1. Dispersed throughout the residential project or, subject to the approval of the Director, may be clustered within the project if the Director determines clustering will increase affordable housing opportunities.~~

~~2. Proportional, in number, bedroom number and size, and location, to the market rate dwelling units, except that the Director may determine that the interior floor area and interior finish features of the units do not need to be the same as, or equivalent to market-rate units in the same project, so long as they are of good quality and consistent with contemporary standards for new housing.~~

~~D. **Continued affordability.**~~

~~1. **Restrictions to ensure continued affordability.**~~

~~a. **Inclusionary housing agreements required.** Before the issuance of Certificates of Occupancy or approval of the final inspection for the inclusionary units, inclusionary housing agreements and, if the inclusionary units are for sale, resale restrictions, deed restrictions and/or other documents, all of which shall be acceptable to the Director and consistent with the requirements of this Chapter, shall be recorded against parcels having the inclusionary units.~~

~~b. **Minimum time for continued affordability.** Each required inclusionary unit shall be reserved for very low to moderate income households in the ratios required by Subsections A. and B. at the applicable affordable housing cost for a minimum of 30 years in the case of units for sale; and for a minimum of 40 years in the case of rental units, except where the Council approves an alternative restriction that it determines will be equally effective in achieving the affordable housing goals and objectives of the Housing Element.~~

~~2. **Resale restrictions to ensure continued affordability.**~~

~~a. The maximum sales price for the resale of an inclusionary unit for sale shall not exceed the seller's purchase price, adjusted for the percentage increase in median income since the seller's purchase, plus the value of substantial structural or permanent fixed improvements to the property, plus the cost of reasonable seller's broker fee, as determined by the Director. For purposes of this Subparagraph, median income shall be calculated based upon the presumed occupancy levels used to determine the affordable sales price.~~

~~b. The resale restrictions shall provide that, before offering an inclusionary unit for sale, the seller shall provide written notice to the Director, by certified mail, of their intent to sell. The City or its designee shall be granted an option to purchase the unit for sale, with a maximum of 30 days to exercise the option, and a maximum of 60 days to conclude the purchase, in addition to the time for exercising the option, at the maximum price which could be charged to an eligible household.~~

~~3. **Eligibility of renters and purchasers.**~~

~~a. No household shall be allowed to occupy an inclusionary rental unit, or purchase an inclusionary unit for sale, unless the City or its designee has approved the household's eligibility, or has failed to make a determination of eligibility within the time or other limits provided by a an inclusionary housing agreement or resale restrictions.~~

~~b. If the City or its designee maintains a list of eligible households, households selected to occupy the inclusionary units shall be selected first from that list to the extent provided in the inclusionary housing agreement or resale restrictions.~~

~~E. **Annual monitoring and transfer fees.**~~

~~1. **Rental units.** For each rental inclusionary unit, the current owner may be required to pay an annual monitoring fee for the term of required affordability. The fee shall be specified in the required inclusionary housing agreement.~~

~~2. **Units for sale.** For each inclusionary unit for sale, the current owner may be required to pay a transfer fee for any change of ownership during the term of required affordability.~~

~~F. **Discretionary permit and map requirements for projects subject to this chapter.**~~

~~1. **Discretionary permits.** Each discretionary permit for a residential project that is subject to this Chapter approved after the effective date of this Chapter shall contain a condition detailing the method of compliance with this Chapter.~~

~~2. **Final or Parcel Maps.** Each Final and Parcel Map shall bear a note indicating that compliance with the requirements of this Chapter shall be met before issuance of a Building Permit for each parcel created by the map.~~

~~G. **Requirements for Certificate of Occupancy or Final Building Inspection.** A temporary or permanent Certificate of Occupancy shall not be issued, a Final Building Inspection approved, or release of utilities authorized for any new dwelling unit in a residential project until:~~

~~1. The developer has satisfactorily completed the requirements of this Chapter, (e.g., on-site construction of affordable units, alternative equivalent actions or payment of the inclusionary housing in lieu fee); or~~

~~2. The developer has demonstrated to the satisfaction of the Director that an exemption as described in Subsection 18.32.030.B is appropriate.~~

~~18.32.090 - Inclusionary Housing Incentives~~

~~A. **Process for describing incentives.** A residential development that complies with the inclusionary housing requirements in Subsection 18.32.050.A (Number of units required), through the actual construction of inclusionary units, shall be entitled to the following procedures and incentives.~~

~~1. **Conceptual preliminary approval of incentives.**~~

~~a. Within 90 days of submittal by a developer of a written preliminary conceptual development proposal before the submittal of any formal application for a General Plan amendment, rezoning, Use Permit, Tentative Map, or other permit or entitlement describing and specifying the location, number, size, and type of the housing development, identifying any requests for density bonus, incentives, modifications, or waivers of development or zoning standards, necessary to make construction feasible for the proposed development, including the inclusionary units, the Council shall review the preliminary development proposal at a public hearing and indicate conceptual preliminary approval or disapproval of the proposed development and any requests for inclusionary housing incentives, modifications, or waivers of development or zoning standards.~~

~~b. Preliminary approval or disapproval shall not bind the Council but rather shall be subject to the discretion of the Council to modify its preliminary recommendations based upon a full review of all pertinent project information, including any CEQA analysis, presented at the public hearing on the subject application.~~

2. **Priority processing of applications.**

   a. The City's processing of an application for a project that includes the construction of inclusionary units shall be expedited by each City department involved with the application.

   b. An application for a project that includes the construction of inclusionary rental units shall be processed before applications including inclusionary owner-occupied units.

3. **Deferral of fees.** The City shall defer the requirement for payment of all City-required fees for inclusionary units until the issuance of the first Certificate of Occupancy or Final Building Inspection for the residential development, except that fees for Building Permits and plan check will not be deferred.

B. **Additional incentives.** The Council may consider, on a case-by-case basis, approving the following incentives which are consistent with the Housing Element of the General Plan for residential development projects that meet the inclusionary housing requirements specified in Subsection 18.32.050 A., above.

1. **Density bonus or other incentives.** A density bonus or other incentives of equal financial value subject to the Council's review and approval.

2. **Waiver or modification of City standards.** Waiver or modification of City site development standards that reduces total project costs while being consistent with required Building Code standards (e.g., site coverage, off-street parking requirements, reduced parcel sizes, and/or setback requirements). The developer shall be responsible for documenting that the waiver or modification is necessary for the feasibility of the residential development project and is consistent with required Building Code standards.

3. **Direct financial assistance.** Provision of direct financial assistance in the form of a loan or grant using the Inclusionary Housing Trust Fund or other appropriate available funds subject to the recommendation of the Director.

18.32.100 - Inclusionary Housing Plan and Housing Agreement

A. **Inclusionary Housing Plan.** The applicant for a residential project that is subject to this Chapter shall submit an Inclusionary Housing Plan detailing how the provisions of this Chapter will be implemented for the proposed residential development project. The Inclusionary Housing Plan shall be considered and acted upon by the review authority at the same time as the residential development that is the subject of the plan.

B. **Inclusionary Housing Agreement.** The applicant shall also execute and cause to be recorded an Inclusionary Housing Agreement to implement the provisions of the Inclusionary Housing Plan, except where compliance with this Chapter is through Sections 18.32.060 (Alternative Equivalent Action), or 18.32.070 (Inclusionary Housing In Lieu Fee).

1. The agreement shall be reviewed, and approved by the City Manager and City Attorney if in compliance with the Inclusionary Housing Plan.

2. The agreement shall be recorded in the office of the County Recorder prior to the issuance of the first Building Permit for the residential development.

C. **Effect of plan and agreement.** After the approval of an Inclusionary Housing Plan and the recording of an Inclusionary Housing Agreement, each inclusionary housing unit shall be constructed as required, and shall be sold or rented, and maintained as an affordable unit, in compliance with the plan and agreement.

~~18.32.110 - Enforcement of Inclusionary Housing Requirements~~

~~A. **Enforcement by City Attorney.** The City Attorney shall enforce the provisions of this Chapter and all implementing regulatory agreements and resale controls placed on the inclusionary units by civil action, injunctive relief, and any other proceeding or method allowed by law.~~

~~B. **Remedies cumulative not exclusive.** The remedies available to the City shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity.~~

~~C. **Recovery of costs.** In any action to enforce this Chapter, or an Inclusionary Housing Agreement recorded in compliance with this Chapter, the City shall be entitled to recover its reasonable attorney's fees and related costs.~~

CHAPTER 18.34 - LANDSCAPING STANDARDS

Sections:

18.34.010 - Purpose
18.34.020 - Applicability
18.34.030 - Definitions
18.34.040 - Landscape and Irrigation Plans
18.34.050 - Landscape Location Requirements
18.34.060 - Landscape Standards
18.34.070 - Maintenance of Landscape Areas
18.34.080 - Water Efficient Landscaping

18.34.010 - Purpose

This Chapter establishes requirements for landscaping to enhance the appearance of development projects, reduce heat and glare, control soil erosion, conserve water, screen potentially incompatible land uses, preserve the integrity of neighborhoods, improve air quality, and improve pedestrian and vehicular traffic and safety.

18.34.020 - Applicability

The provisions of this Chapter apply to all land uses as follows:

A. **New projects.** Each new nonresidential and multi-family residential project shall provide landscaping in compliance with this Chapter. All residential development projects shall provide street trees in compliance with Section 18.34.060.B.2.d(3).

B. **Existing development.** The approval of a Minor Use Permit, Use Permit, Minor Variance, Variance, or application for Design Review for physical alterations and/or a change in use within an existing development may include conditions of approval requiring compliance with specific landscaping and irrigation requirements of this Chapter.

C. **Timing of installation.** Required landscape and irrigation improvements shall be installed before final building inspection. The installation of landscaping for a residential project may be deferred for a maximum of 90 days in compliance with Section 18.76.060 (Performance Guarantees).

D. **Alternatives to requirements.** The review authority may modify the standards of this Chapter to accommodate alternatives to required landscape materials or methods, where the review authority first determines that the proposed alternative will be equally or more effective in achieving the purposes of this Chapter. The review authority may also modify the requirements of this Chapter to accommodate an affordable housing project in compliance with Chapters 18.31 (Density Bonuses and Affordable Housing Incentives), and 18.32 (Inclusionary Housing Requirements).

18.34.030 - Definitions

Definitions of certain technical terms and phrases used in this Chapter are under "Landscaping Standards" in Article 10 (Glossary) of this Development Code.

18.34.040 - Landscape and Irrigation Plans

A. **Preliminary Landscape Plan.** A Preliminary Landscape Plan shall be submitted as part of each application for new development, or the significant expansion (e.g., 25 percent or more of floor area), or redevelopment of an existing use, as determined by the Director.

B. **Final Landscape Plan.** After planning permit approval, a Final Landscape Plan shall be submitted as part of the application for a Building Permit. A Final Landscape Plan shall be approved by the review authority before the start of grading or other construction, and before the issuance of a Building Permit.

C. **Content and preparation.**

1. **Required information.** Preliminary Landscape Plans and Final Landscape Plans shall contain the information required for landscape plans by the Department. However, at a minimum, the plans shall include the following information:

   a. **Preliminary Landscape Plans.** Location of proposed materials, including the identification of ground covers, shrubs, and trees.

   b. **Final Landscape Plans.** Detailed drawings and specifications clearly identifying the name, size, and precise location of all materials, as well as the precise location and technical description of the irrigation system and its individual components.

2. **Preparation by qualified professional.** Each landscape plan for five or more dwelling units, or a non-residential project submitted in compliance with this Chapter shall be prepared by a California licensed landscape architect, licensed landscape contractor, certified nurseryman, or other professional determined by the Director to be qualified.

D. **Review and approval.** After initial application, the Director shall review each Preliminary Landscape Plan and Final Landscape Plan to verify its compliance with the provisions of this Chapter. The Director may approve the submittal in compliance with this Chapter, or may disapprove or require changes to a submittal if it is not in compliance.

E. **Statement of surety.** When required by the Director, security in the form of cash, performance bond, letter of credit, or instrument of credit, in an amount equal to 150 percent of the total value of all plant materials, irrigation, installation, and maintenance shall be posted with the City for a two-year period. The Director may require statements of surety for phased development projects, a legitimate delay in landscape installation due to seasonal requirements (including adverse weather conditions) and similar circumstances where it may not be advisable or desirable to install all approved landscaping before occupancy of the site.

F. **Changes to approved landscape plans.** The Director may authorize minor changes from the requirements of this Chapter.

1. For purposes of this Section, minor changes shall be defined as changes to the Final Landscape Plans that are not visible and do not effect the theme or character established for the subject development project.

2. If the Director determines that a requested change does not comply with the definition of minor in Subsection F.1, above, the requested change may only be approved by the review authority that originally approved the plans.

18.34.050 - Landscape Location Requirements

Landscaping shall be provided in all areas of a site subject to development with structures, grading, or the removal of natural vegetation, as follows.

A. **Setbacks.** The setback and open space areas required by this Development Code, and easements for utilities and drainage courses shall be landscaped, except where:

1. Occupied by approved structures or paving;

2. They are retained in their natural state, and the review authority determines that landscaping is not necessary to achieve the purposes of this Chapter.

B. **Unused areas.** Any area of a project site not intended for a specific use, including a commercial pad site intended for future development, shall be landscaped unless retained in its natural state, and the review authority determines that landscaping is not necessary to achieve the purposes of this Chapter.

C. **Parking areas.** Parking areas shall be landscaped as follows.

1. **Landscape materials.** Landscaping shall be provided throughout the parking lot as a combination of ground cover, shrubs, and trees.

2. **Curbing.** Areas containing plant materials shall be bordered by a concrete curb at least six inches high and six inches wide. The review authority may approve alternative barrier designs to protect landscaped areas from damage by vehicles, **and to allow infiltration of parking lot stormwater runoff into landscaped areas.**

~~4c.~~ **3. Runoff detention, retention, or infiltration ~~Groundwater recharge~~. The design of landscaped areas for parking lots shall consider, and may, where appropriate, be required to include provisions for the on-site detention, retention, and/or infiltration of stormwater runoff, which reduces and slows runoff, and provides pollutant cleansing and groundwater recharge ~~or detention~~. Where landscaped areas are designed for detention, retention, and/or infiltration of stormwater runoff from the parking lot, the following provisions shall apply:**

a. Recess landscaped areas. Landscaped areas shall be recessed below the surface of the pavement, to allow stormwater runoff from the parking lot to flow into the landscaped area and infiltrate into the ground.

b. Provide curb cuts. Curb cuts shall be placed in curbs bordering landscaped areas, or else curbs shall not be installed, to allow stormwater runoff to flow from the parking lot into landscaped areas.

3 **4 Perimeter parking lot landscaping.** All surface parking areas shall be provided a fence, or landscape buffer between the parking area, and streets and adjoining properties, and the open areas between the property line and the public street right-of-way shall be landscaped.

a. **Adjacent to streets and only where allowed by Section 18.36.090 or preexisting conditions.**

(1) A parking area for a nonresidential use adjoining a public street, where allowed by Section 18.36.090.C (Parking Design and Development Standards - Location) shall be designed to provide a landscaped planting strip between the street right-of-way and parking area equal in depth to the setback required by the applicable zoning district or 15 feet, whichever is more.

(2) A parking area for a residential use, except for a single-family dwelling or duplex, shall be designed to provide a landscaped planting strip between the street right-of-way and parking area equal in depth to the setback required by the applicable zoning district.

(3) The landscaping shall be designed and maintained to screen cars from view from the street to a minimum height of 36 inches, but shall not exceed any applicable height limit for landscaping within a setback.

(4) Screening materials may include a combination of plant materials, earth berms, solid decorative masonry walls, raised planters, or other screening devices which meet the intent of this requirement.

(5) Shade trees shall be provided at a minimum rate of one for every 25 linear feet of landscaped area, or other spacing as determined by the review authority to be appropriate to the site and surrounding development.

(6) Plant materials, signs, or structures within a traffic safety sight area of a driveway shall comply with Section 18.30.060.E (Height limit at street corners).

b. **Adjacent to side or rear property lines.** Parking areas for nonresidential uses shall provide a perimeter landscape strip at least eight feet wide (inside dimension) where the parking area adjoins a side or rear property line. The requirement for a landscape strip may be satisfied by a setback or buffer area that is otherwise required. Trees shall be provided at the rate of one for each 25 linear feet of landscaped area, or other spacing as determined by the review authority to be appropriate to the site and surrounding development.

c. **Adjacent to structures.** When a parking area is located adjacent to a nonresidential structure, a minimum eight-foot wide (inside dimension) landscape strip shall be provided adjacent to the structure, exclusive of any building entries, or areas immediately adjacent to the wall of the structure that serve as pedestrian accessways. The required width of the landscape strip may be reduced by the review authority where it determines that overall site area is insufficient to accommodate allowable structures and required parking.

d. **Adjacent to residential use.** A parking area for a nonresidential use adjoining a residential use shall provide a landscaped buffer setback with a minimum 10-foot width between the parking area and the common property line bordering the residential use.

(1) A solid decorative masonry wall or solid fence, except for approved pedestrian access, and landscape buffer shall be provided along the property line to address land use compatibility issues (e.g., nuisance noise and light/glare) as determined by the review authority.

(2) Trees shall be provided at the rate of one for each 25 linear feet of landscaped area, or other spacing as determined by the review authority to be appropriate to the site and surrounding development.

4. 5. **Interior parking lot landscaping.**

a. **Amount of landscaping.** Multi-family, commercial, and industrial uses shall provide landscaping within each outdoor parking area at a minimum ratio of 10 percent of the gross area of the parking lot. The review authority may grant an exception for small, infill parking lots where compliance with this standard is not feasible without significantly reducing the number of parking spaces. Trees not less than five feet

in height and 15-gallon container in size shall be planted throughout the parcel and along any street frontage. At a minimum, one shade tree shall be provided for every five parking spaces.

b. **Location of landscaping.** Landscaping shall be evenly dispersed throughout the parking area, as follows.

(1) Orchard-style planting (the placement of trees in uniformly-spaced rows) is encouraged for larger parking areas.

(2) Parking lots with more than 50 spaces shall provide a concentration of landscape elements at primary entrances, including, at a minimum, specimen trees, flowering plants, enhanced paving, and project identification.

(3) Landscaping shall be located so that pedestrians are not required to cross unpaved landscaped areas to reach building entrances from parked cars. This shall be achieved through proper orientation of the landscaped fingers and islands, and by providing pedestrian access through landscaped areas that would otherwise block direct pedestrian routes.

~~c. **Groundwater recharge.** The design of parking lot landscape areas shall consider, and may, where appropriate, be required to include provisions for the on-site detention of stormwater runoff, pollutant cleansing, and groundwater recharge.~~

D. **Subdivisions.** A new subdivision shall be designed and constructed to provide landscaping as follows.

1. **Residential subdivisions.** A residential subdivision shall be provided:

a. Landscaping in the form of one street tree for each 30 feet of street frontage, in the planter strip or other location approved by the review authority, or a windrow elsewhere on the site as authorized by the review authority based on the character of streets in the site vicinity and the location of the site relative to existing development;

b. Landscaping with irrigation facilities for any common areas or other open space areas within the subdivision; and

c. Any additional landscaping required by the review authority.

The species of street trees shall be as required by the review authority, and plantings within a public right-of-way shall comply with the City's standard specifications.

2. **Nonresidential subdivisions.** Nonresidential subdivisions shall be provided landscaping as required by the review authority.

18.34.060 - Landscape Standards

A. **Landscape design.** The required landscape plan shall be designed to integrate all elements of the project (e.g., buildings, parking lots, and streets) to achieve their aesthetic objectives, desirable microclimates**, stormwater runoff infiltration objectives,** and minimize**ization** of water and energy demand.

1. **Plant selection and grouping.** Plant materials shall be selected for: water demand and drought tolerance; adaptability and relationship to the Fort Bragg environment, and the geological and topographical conditions of the site; color, form, and pattern; ability to provide shade; and soil retention capability.

a. Plants having similar water use shall be grouped together in distinct hydrozones.

b. The protection and preservation of native species and natural areas is encouraged, and may be required by conditions of approval as a result of project review in compliance with the California Environmental Quality Act (CEQA).

c. Fire prevention shall be addressed on sites in any wooded or vegetated area of the City identified by the Fire Department as being fire prone, by reducing fuel between development areas and naturally vegetated areas, as identified by the Director.

2. **Minimum dimensions.** Each area of landscaping shall have a minimum interior width of eight feet within the residential and commercial zoning districts, and five feet in the industrial zoning districts. These dimensions may be reduced where the review authority determines they are infeasible because of limited site area. Wherever this Development Code requires a landscaped area of a specified width, the width shall be measured within any curb or wall bordering the landscaping area.

3. **Height limits.** Landscape materials shall be selected, placed on a site, and maintained to not:

a. Exceed a maximum height of 42 inches within a traffic safety visibility area required by Section 18.30.060.E, except for one or more trees with the lowest portion of their canopy maintained at a minimum height of six feet above grade; or

b. Interfere with the proper operation of solar energy equipment or passive solar design on adjacent parcels.

4. **Protective curbing.** Required landscaping shall be protected with a minimum six-inch high concrete curb, except **where** adjacent to bicycle paths, **or where the landscaped area is designed to infiltrate stormwater runoff from adjacent impermeable surfaces,** or where otherwise deemed unnecessary **by** the Director.

5. **Safety requirements.** Landscape materials shall be located so that at maturity they do not:

a. Interfere with safe sight distances for vehicular, bicycle, or pedestrian traffic;

b. Conflict with overhead utility lines, overhead lights, or walkway lights; or

c. Block pedestrian or bicycle ways.

6. **Water features.** Decorative water features (e.g., fountains, ponds, waterfalls) shall have recirculating water systems.

B. **Plant material.** Required landscape shall include trees, shrubs, and ground covers, as follows.

1. **Size at time of planting.** Plant materials shall be sized and spaced to achieve immediate effect and shall not be less than a 15-gallon container for trees, five-gallon container for specimen shrubs and six-inch pots for mass planting, unless otherwise approved by the review authority on the basis that the alternate size will achieve the desired immediate effect equally well.

2. **Trees.** Tree planting shall comply with the following standards.

a. Trees shall not be planted under any structure that may interfere with normal growth (for example, an eave, overhang, balcony, light standard or other similar structure).

b. Trees in landscape planters less than 10 feet in width or located closer than five feet from a permanent structure shall be provided with root barriers/root barrier panels.

c. Trees shall be staked in compliance with standards provided by the Department.

d. At a minimum, the required landscape shall include the following number of trees:

(1) Parking area: refer to Section 18.34.050.C (Parking areas).

(2) Street setbacks: one per 200 square feet of landscaped area.

(3) Street trees: one per 30-foot length of right-of-way. The review authority may modify this requirement depending on the chosen tree species and its typical spread at maturity.

3. **Groundcover and shrubs.** The majority of areas required to be landscaped shall be covered with groundcover, shrubs, turf, or other types of plants that are predominantly drought tolerant.

a. A minimum of two, five-gallon size shrubs shall be provided for every six feet of distance along street setbacks, or as approved by the Director.

b. Groundcover shall be provided throughout the landscaped area and shall be spaced to achieve full coverage within one year.

c. Artificial groundcover or shrubs shall not be allowed.

d. Crushed rock, redwood chips, pebbles, stone, and similar materials shall be allowed up to 15 percent of the total required landscape area. Artificial or synthetic ground covers are not allowed.

e. Nonturf areas (e.g., shrub beds) shall be top dressed with a bark chip mulch or approved alternative.

4. **Turf.** Turf shall be limited to 50 percent of the total landscaped area on the site where the applicant provides calculations approved by the Director that demonstrate that the irrigation requirements will not exceed standard low water usage. No turf shall be allowed:

a. In any area of 10 feet or less in width; or

b. On any slope exceeding 10 percent (25 percent, where other project water-saving techniques compensate for the increased runoff). A level buffer zone of 18 inches shall be provided between bermed turf areas and any hardscape (e.g., any street, walkway, or similar feature).

5. **Soil conditioning and mulching.**

a. A minimum one-foot depth of uncompacted soil shall be available for water absorption and root growth in each planted area.

b. A soil test for horticultural suitability shall be required at time of landscape installation in each landscaped area. Soil shall be prepared and/or amended to be suitable for the landscape to be installed.

c. A minimum of two inches of mulch shall be added in each nonturf area to the soil surface after planting. Any plant type that is intolerant to mulch shall be excluded from this requirement. Nonporous material shall not be placed under the mulch.

C. **Irrigation system requirements.** All landscaped areas except those approved for maintenance with intentionally unirrigated native plants shall include an automatic irrigation system.

1. Water-efficient systems (e.g., drip, mini-spray, bubbler-type, or similar system) shall be used unless infeasible. Low-flow sprinkler heads with matched precipitation rates shall be used when spray or rotor-type heads are

specified for watering shrubs and ground cover areas. Turf areas shall be sized and shaped so they can be efficiently irrigated. Spray or run-off onto paved areas shall be avoided.

2. Dual or multi-program controllers with separated valves and circuits shall be used when the project contains more than one type of landscape treatment (e.g., lawn, ground cover, shrub, tree areas), or a variety of solar aspects. Soil moisture-sensing devices and rain sensors shall be used on larger projects (50,000 plus square feet of landscaped area) to minimize or eliminate over-watering.

3. Watering shall be scheduled at times of minimal wind conflict and evaporation loss.

4. Sprinkler heads must have matched precipitation rates within each valve zone.

5. Check valves are required where elevation differential may cause low head drainage.

D. **Certification of landscape completion.** The completion of required landscaping and irrigation improvements shall be certified by the author of the landscape and irrigation plan, through a signed statement submitted to the Director.

18.34.070 - Maintenance of Landscape Areas

A. **Maintenance required.** All site landscaping shall be maintained in a healthful and thriving condition at all times. Irrigation systems and their components shall be maintained in a fully functional manner consistent with the originally approved design and the provisions of this Chapter. Regular maintenance shall include checking, adjusting, and repairing irrigation equipment; resetting automatic controllers; aerating and dethatching turf areas; adding/replenishing mulch, fertilizer, and soil amendments; pruning; and weeding all landscaped areas.

B. **Maintenance agreement.** Prior to final building inspection or the issuance of a certificate of occupancy, and prior to the recordation of a final subdivision map where applicable, the applicant shall enter into a landscape maintenance agreement with the City to guarantee proper maintenance in compliance with Subsection A. The form and content of the agreement shall be approved by the City Attorney and the Director.

C. **Water waste prohibited.** Water waste in existing developments resulting from inefficient landscape irrigation leading to excessive runoff, low head drainage, overspray, and other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, or structures is prohibited.

D. **Enforcement.** Failure to maintain landscape areas in compliance with this Section shall be deemed a nuisance, and shall be subject to abatement in compliance with the Municipal Code, and/or the applicable planning permit may be revoked.

CHAPTER 18.36 - PARKING AND LOADING

Sections:

18.36.010 - Purpose
18.36.020 - Applicability
18.36.030 - General Parking Regulations
18.36.040 - Number of Parking Spaces Required
18.36.050 - Disabled/Handicapped Parking Requirements
18.36.060 - Bicycle Parking
18.36.070 - Motorcycle Parking
18.36.080 - Reduction of Parking Requirements
18.36.090 - Parking Design and Development Standards
18.36.100 - Driveways and Site Access
18.36.110 - Loading Space Requirements

18.36.010 - Purpose

The requirements of this Chapter are intended to ensure that suitable off-street parking and loading facilities are provided for all uses and developments, and that the facilities are properly designed, attractive, and located to be unobtrusive while meeting the needs of the specific use.

18.36.020 - Applicability

A. **Off-street parking and loading required.** Each land use and structure, including a change or expansion of a land use or structure, shall provide suitable off-street parking and loading facilities in compliance with this Chapter.

B. **Timing of improvements.** A land use shall not be commenced and a structure shall not be occupied until the parking and loading improvements required by this Chapter are completed and approved by the Director.

18.36.030 - General Parking Regulations

A. **Parking and loading spaces to be permanent.** Each parking and loading space shall be permanently available, marked, and maintained for parking or loading purposes for the use it is intended to serve; provided that the approval of a Limited Term Permit (Section 18.71.030) may allow the temporary use of a parking or loading space for other purposes.

B. **Parking and loading to be unrestricted.** A lessee, owner, tenant, or other person having control of the operation of a premises for which parking or loading spaces are required by this Chapter shall not prevent, prohibit, or restrict authorized persons from using the spaces without the prior approval of the Director.

C. **Vehicles for sale.** No vehicle, trailer, or other personal property shall be parked on private property for the purpose of displaying the vehicle, trailer, or other personal property for hire, rental, or sale, unless the applicable zoning district allows the use, and the person or business at that location is licensed to sell vehicles, trailers, or other personal property. However, one vehicle or trailer owned by the lessee, owner, or renter of the property may be displayed for the purpose of sale for a maximum of one month.

D. Recreational vehicle (RV) parking.

1. The storage (parking for any period longer than 72 hours) of a recreational vehicle (RV) and/or boat in a residential zoning district shall be allowed only when all portions of the vehicle or boat are located entirely within the property boundaries and do not extend into the public right-of-way.

2. Parking within setback areas shall also comply with Section 18.30.100.D. (Limitations on the Use of Setbacks).

18.36.040 - Number of Parking Spaces Required

Each land use shall be provided the number of off-street parking spaces required by this Section. See Sections 18.36.100, and 18.36.110 for off-street parking requirements for bicycles and motorcycles, respectively.

A. Parking requirements by land use.

1. **Number of spaces.** The number of off-street parking spaces required for each land use is determined as follows. Rules for the calculation of the required number of spaces are in Subsection A.2, below.

   a. **Basic space requirement.** Each land use shall provide the number of off-street parking spaces required by Table 3-7, except where a greater **or lesser** number of spaces are required through Minor Use Permit or Use Permit approval in compliance with Section 18.71.060.

   b. **Use not listed.** A land use not specifically listed in Table 3-7 shall provide parking as required by the Director. The Director shall use the requirements in Table 3-7 as a guide in determining the appropriate number of off-street parking spaces required for the use.

   c. **Use with accessory components.** A single use with accessory components shall provide parking for each component. For example, a hotel with a gift shop shall provide the parking spaces required by Table 3-7 for a hotel (e.g., the guest rooms), and for a gift shop.

   d. **Multi-tenant site.**

      (1) A site with multiple tenants shall provide the aggregate number of parking spaces required for each separate use, except where the site is developed as an integrated shopping center with shared parking and no spaces reserved for a particular use. In this instance, the parking shall be provided as required by Table 3-7 for a shopping center.

      (2) When a multi-tenant center includes one or more uses that will need more parking than retail uses (e.g., a health/fitness facility, restaurant, or theater) additional parking shall be required for the non-retail use unless a parking reduction is approved in compliance with 18.36.080 (Reduction of Parking Requirements), below.

   e. **Expansion of structure, change in use.** When a structure is enlarged, or when a change in its use requires more off-street parking than the previous use, additional parking spaces shall be provided in compliance with this Chapter. See also Chapter 18.90 (Nonconforming Uses, Structures, and Parcels).

   f. **Excessive parking.**

      (1) The City discourages a land use being provided more off-street parking spaces than required by this Chapter, in order to avoid the inefficient use of land, unnecessary pavement, and excessive storm water runoff from paved surfaces.

(2) The provision of off-street parking spaces in excess of the requirements in Table 3-7 is allowed only with Minor Use Permit approval in compliance with Section 18.71.060, and only when additional landscaping, pedestrian amenities and necessary storm drain improvements are provided to the satisfaction of the review authority.

2. **Calculation of required parking.**

a. **Floor area.** In any case where Table 3-7 expresses a parking requirement based on floor area in square feet (for example: 1 space for each 1,000 sf of floor area), the floor area shall be construed to mean gross interior floor area.

b. **Rounding of calculations.** If a fractional number is obtained in calculations performed in compliance with this Chapter, one additional parking space shall be required for a fractional unit of 0.50 or above, and no additional space shall be required for a fractional unit of less than 0.50.

c. **Bench or bleacher seating.** Where fixed seating is provided as benches, bleachers, pews, or similar seating, a seat shall be defined as 24 inches of bench space for the purpose of calculating the number of parking spaces required by Table 3-7.

d. **Parking based on employees.** Whenever parking requirements are based on the number of employees, calculations shall be based on the largest number of employees on duty at any one time.

B. **Use of on-street parking - Exception.** Available on-street parking spaces cannot be used to meet the parking requirements identified in this Chapter. An exception to this provision may be granted for a licensed day care facility or a pre-school, subject to Minor Use Permit approval in compliance with Section 18.71.060.

1. **Criteria for approval.** The Minor Use Permit may be issued if it meets all of the following criteria, in addition to the findings identified in Section 18.71.060:

a. The exception shall be granted only for uses in an existing structure. It shall not be granted for any expansion of gross floor area to a structure or for new construction.

b. The maximum amount of parking which is feasible shall be provided on-site.

c. The exception shall only be granted in situations where the City Engineer has determined that the exception will not result in potentially unsafe conditions for vehicles or pedestrians.

2. **Annual review.** Each Minor Use Permit that grants an exception to off-street parking requirements shall be reviewed annually, and, if the review authority finds that the use of on-street parking spaces is creating a nuisance, the City may initiate proceedings to revoke the Minor Use Permit.

C. **Nonconforming parking.** A use or structure with nonconforming off-street parking may be physically changed or undergo a change in use in compliance with the following provisions.

1. **Residential uses.** No additional parking spaces shall be required; provided, the change does not increase the number of dwelling units, nor eliminate the only portion of the site that can be used for the required or existing parking or access.

2. **Nonresidential uses.**

a. The number of existing parking spaces shall be maintained on the site and additional parking shall be provided in compliance with this Chapter for any additional floor area.

b. If the use of the structure is changed to one that requires more parking than the previous use, only the difference between the number of parking spaces required for the previous use and those required for the new use shall be added.

c. The change shall not eliminate the only portion of the site that can be used for the required or existing parking or access.

3. **Waiver by Director.** The Director may waive parking requirements when a nonconforming structure is proposed for rehabilitation if the Director determines that the existing structure location, parcel size, or topography renders the requirement unreasonable.

D. **Recreational vehicle (RV) parking spaces.** Off-street recreational vehicle (RV) parking spaces shall be provided as follows for retail uses, shopping centers, and visitor attractions that are required by this Chapter to provide 40 or more off-street parking spaces.

1. **Number of RV spaces required.** RV parking spaces shall provided at a minimum ratio of one RV space for each 40 off-street vehicle parking spaces, or fraction thereof, required by this Chapter.

2. **RV stall dimensions.** Each RV parking space shall be designed as a pull-through space with a minimum width of 12 feet and a minimum length of 40 feet, with 14 feet of vertical clearance.

3. **Modifications by Director.** The Director may modify the provisions of this Subsection through a Minor Use Permit granted in compliance with Section 18.71.060.

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE

Land Use Type: Manufacturing Processing and Warehousing	Vehicle Spaces Required
All manufacturing, industrial, and processing uses, except the following.	1 space for each 200 sf of office area; 1 space for each 500 sf of floor and/or ground area devoted to other than office use; 1 space for each 5,000 sf of open storage.
Media production	1 space for each 300 sf of floor area.
Recycling facilities	
Heavy or light processing facilities	Determined by Use Permit.
Large collection facilities	Determined by Use Permit.
Scrap/dismantling yards	1 space for each 300 sf of gross floor area, plus 1 space for each 10,000 sf of gross yard area.
Small collection facilities	Determined by Minor Use Permit.
Wholesaling and distribution	1 space for each 500 sf of floor area.

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Recreation, Education, and Public Assembly	Vehicle Spaces Required (1)
Clubs, community centers, lodges, and meeting halls	1 space for each 100 sf of floor area.
Commercial recreation facilities - Indoor, except for the following:	1 space for each 400 sf of floor area.
Arcades	1 space for each 200 sf of floor area.
Bowling alleys	4 spaces for each alley.
Pool and billiard rooms	2 spaces for each table.
Commercial recreation facilities - Outdoor	Determined by Use Permit
Conference/convention and sports/entertainment facilities	1 space for each 200 sf of floor area.
Equestrian facilities	1 space for each 5 horses boarded.
Golf	
Golf courses and country clubs	4 spaces per hole, plus as required by this table for accessory uses (e.g., banquet room, bar, pro shop, restaurant, etc.)
Golf driving range	1 space for each tee.
Health/fitness facilities	1 space for each 200 sf of floor area.
Library, gallery, and museum	1 space for each 300 sf of floor area.
Religious facilities	1 space for each 4 seats or 1 space for each 75 sf of floor area, whichever would yield more spaces; plus 1 space for each classroom or office.
Schools (public and private)	
Kindergarten and nursery schools	1 space per employee plus 1 space for each 10 children.
(Middle) Elementary/junior highs	1 space per employee plus 1 space for each 10 students.
(Secondary) High schools	1 space per employee plus 1 space for each 5 students.
Colleges and universities (including trade, business, and art/music/dancing schools)	1 space per employee plus 1 space for each 2 students.
Studios (art, dance, martial arts, music, etc.)	1 space for each 200 sf of floor area.
Theaters, auditoriums , and places of assembly	1 space for each 4 seats or 1 space for each 100 sf of floor area, whichever would yield more spaces.

Notes:

(1) Recreational vehicle parking spaces may also be required. See Section 18.36.040.D (Recreational vehicle (RV) parking spaces).

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Residential Uses	Vehicle Spaces Required
Live/work unit	2 spaces for each unit.
Mobile home	
Outside of mobile home park	1 space for each unit.
Within a mobile home park	1 space for each unit, plus 0.5 guest parking space and 0.25 parking space for each unit for vehicle storage.
Multi-family housing	Project of 4 or fewer units - 1 space for units less than 400 sf; 1.5 spaces for units between 400 and 960 sf; and 2 spaces per unit for units larger than 960 sf. Project of 5 or more units - 2 spaces for each unit, 3 spaces for units with 4 or more bedrooms, plus guest parking at a ratio of 1 uncovered space for each 3 units. Guest parking is not required for a project with 4 or fewer units.
Multi-family housing component within a mixed use project	Studio or 1 bedroom unit - 1 space for each unit 2 or 3 bedroom unit - 2 spaces for each unit Guest parking - 1 space for each 4 units
Organizational house	1 space for each bedroom.
Residential care facility	
Six or fewer clients	2 spaces.
Seven or more clients	1 space for each 2 residential units, plus 1 space for each 4 units for guests and employees.
Rooming or boarding house	1 space for each bedroom.
Second dwelling unit	See Section 18.42.170.F
Single-family dwelling	2 spaces; 3 spaces for dwellings with 4 or more bedrooms

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Retail Trade	**Vehicle Spaces Required** (1)
All "Retail Trade" and general retail uses listed in Section 18.22.020, Table 2-6, except for the following:	1 space for each 300 sf of floor area, plus 1 space for each 300 sf of outdoor sales area.
Auto and vehicle sales and rental	1 space for each 400 sf of floor area for the showroom and offices, plus 1 space for each 2,000 sf of outdoor display area, plus spaces as required by this Section for parts sales ("retail trade," above), and vehicle services.
Bar, cocktail lounge, night club, tavern	1 space for each 4 seats; or 1 space for each 200 sf of floor area, whichever would yield more spaces
Building and landscape materials and furniture stores	1 space for each 500 sf of indoor display area for the first 10,000 sf, 1 space for each 1,000 sf of indoor display area over 10,000; 1 space for each 1,000 sf of outdoor display area.
Convenience store	1 space for each 250 sf of floor area.
Marine-related use (hardware, supplies, rentals, and sales)	1 space for each 500 sf of floor area for the showroom and offices, plus 1 space for each 5,000 sf of outdoor display area, plus spaces as required by this Section for parts sales ("retail trade," above), and services.
Restaurant, café, coffee shop	1 space for each 60 sf of dining area.
Service station	1 space for each 300 sf of floor area, plus 3 spaces for each service bay.
Shopping center	1 space for each 300 sf of floor area
Warehouse retail center	1 space for each 500 sf of indoor display area for the first 10,000 sf, 1 space for each 1,000 sf of indoor display area over 10,000; 1 space for each 1,000 sf of outdoor display area.

Notes:

(1) Recreational vehicle parking spaces may also be required. See Section 18.36.040.D (Recreational vehicle (RV) parking spaces).

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Service Uses	Vehicle Spaces Required
Banks and financial services	1 space for each 300 sf of floor area, plus 4 tandem stacking spaces for each drive-up teller or teller station.
Child day care	
Large family day care home	3 spaces minimum; may include spaces provided to fulfill residential parking requirements and on-street parking so long as it abuts the site.
Child/adult day care center	1 space for each employee, plus 1 space for each 10 children.
Equipment rental	1 space for each 300 sf of floor area; none required for outdoor storage and rental area; provided, sufficient area is provided within the yard to accommodate all customer vehicles entirely on-site.
Freight terminal	1 space for each 1,000 sf of lot area, plus 1 space for each commercial vehicle.
Laundry - Dry cleaning pick-up facilities and Laundromats	1 space for each 300 sf of floor area.
Laundry - Laundries and dry cleaning plants	1 space for each 1,000 sf of floor area.
Lodging	
Bed and breakfast inn	1 space for each guest room, plus 2 spaces for the manager or owner.
Hotel or motel	1 space for each unit, plus 2 spaces for the manager or owner, plus required spaces for accessory uses.
Medical Marijuana Dispensary	1 space for each 300 sf of floor space. (Ord. 851 §2, 2005)
Medical services	
Clinic, laboratory, urgent care, doctor office	1 space for each 250 sf of floor area or 4 spaces for each doctor, whichever would yield more spaces.
Extended care	1 space for each 3 beds or patients the facility is licensed to accommodate.
Hospitals	1 space for each bed, plus 1 space for each 500 sf of floor area.

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: **Service Uses** (Continued)	**Vehicle Spaces Required**
Mortuaries and funeral homes	1 space for each 300 sf of floor area within the facility or 1 space for each 4 seats in the sanctuary, whichever would yield more spaces.
Offices	
Business, service, government	1 space for each 300 sf of floor area.
Processing and corporate	1 space for each 150 sf of floor area.
Professional/administrative	1 space for each 300 sf of floor area
Personal services and personal services - restricted	
All personal service uses except the following	1 space for each 300 sf of floor area
Barber/beauty shops	2 spaces for each barber or beautician, with a minimum of 4 spaces.
Storage	
Cold storage facilities or ice plants	1 space for each 500 sf of floor area.
Outdoor storage	1 space for each 3,000 sf of lot area.
Personal storage facilities (mini-storage)	4 spaces for the manager's office.
Warehousing	1 space for each 500 sf of floor area.
Vehicle services (major and minor repair)	4 spaces for each service or wash bay, plus spaces for any office as required by this Section for offices.
Veterinary clinics, animal hospitals, boarding, or kennels	1 space for each 300 sf of floor area.
Boarding or kennels separate from other veterinary facilities	1 space per employee, plus 2 spaces.

18.36.050 - Disabled Parking Requirements

A. **Number of spaces required.**

1. One parking space for the disabled shall be provided within a parking lot with less than 26 spaces. **With a Minor Use Permit, a shared space may be provided on a nearby parking lot.**

2. Larger parking lots shall include additional spaces for the disabled as required by Federal law**, with all spaces provided on-site**.

3. Parking spaces required for the disabled shall count toward compliance with the minimum number of off-street parking spaces required by this Chapter.

B. **Minimum space width.** Each parking space for the disabled shall have a minimum width of 14 feet.

18.36.060 - Bicycle Parking

Each multi-family project of five or more units and nonresidential land use shall provide bicycle parking in compliance with this Section.

A. **Number of bicycle spaces required.**

1. **Multi-family project.** A multi-family project of five or more units shall provide bicycle parking spaces equal to a minimum of 10 percent of the required vehicle spaces, unless separate secured garage space is provided for each unit. The bicycle spaces shall be distributed throughout the project.

2. **Nonresidential project.** A nonresidential project (e.g., retail, office, etc.) shall provide bicycle parking spaces equal to a minimum of five percent of the required vehicle spaces, distributed to serve customers and employees of the project.

B. **Bicycle parking design and devices.** Each bicycle parking space shall include a stationary parking device to adequately secure the bicycle, shall be a minimum of two feet in width and six feet in length, with a minimum of seven feet of overhead clearance, and shall be conveniently located and generally within proximity to the main entrance of a structure.

18.36.070 - Motorcycle Parking

A parking lot with 50 or more vehicle parking spaces shall provide motorcycle parking spaces conveniently located near the main entrance to the primary structure and accessed by the same access aisles that serve the vehicle parking spaces in the parking lot.

A. **Number of spaces required.** A minimum of one motorcycle parking space shall be provided for each 50 vehicle spaces or fraction thereof.

B. **Space dimensions.** Motorcycle spaces shall have minimum dimensions of four feet by seven feet.

18.36.080 - Reduction of Parking Requirements

A. **Shared on-site parking.**

1. Where two or more adjacent ~~nonresidential~~ uses have distinct and differing peak parking usage periods (e.g., a theater and a bank), a reduction in the required number of parking spaces may be allowed through Minor Use Permit approval granted in compliance with Section 18.71.060.

2. Approval shall also require a recorded covenant running with the land, recorded by the owner of the parking lot, guaranteeing that the required parking will be maintained exclusively for the use served for the duration of the use.

B. **Reduction of required parking.** The Director may reduce the number of parking spaces required by Section 18.36.040 (Number of Parking Spaces Required), through the granting of a Minor Use Permit in compliance with Section 18.71.060, based on quantitative information provided by the applicant that documents the need for fewer spaces (e.g., sales receipts, documentation of customer frequency, information on parking standards required for the proposed land use by other cities, etc.).

C. **Central Business District (CBD) Special Parking Combining Zone.** The following parking requirements shall apply to areas within the CBD shown on the CBD Special Parking Combining Zone Map, below. An applicant may either comply with the parking requirements identified in Section 18.36.040 (Number of Parking Spaces Required), above, meet the alternative CBD parking requirements identified in Subsection C.2, or pay the parking in lieu fee identified in Subsection C.3.

1. **Exemptions from the off-street parking requirements.** The following uses located within the CBD Special Parking Combining Zone are exempt from the off-street parking requirements identified in this Chapter:

   a. Replacement of an existing use with a new use determined to be similar by the Director.

   b. On the ground floor, any intensification of a commercial use except for bars, cocktail lounges, restaurants, and taverns.

   c. Any use with hours of operation exclusively after 5:00 p.m.

   d. Residential dwelling units located above ground floor commercial uses.

2. **Number of parking spaces required for uses in the CBD Special Parking Combining Zone.**

   a. Off-street parking for uses in the CBD Special Parking Combining Zone shall comply with the requirements in Table 3-8.

   b. A land use not specifically listed by Table 3-8 shall provide parking as required by the Director. The Director shall use the requirements in Table 3-8 as a guide in determining the appropriate number of off-street parking spaces required for the use.

   c. In any case where Table 3-8 expresses a parking requirement based on floor area in square feet (for example: 1 space for each 400 sf of floor area), the floor area shall be construed to mean gross interior floor area.

   d. A single use with accessory components shall provide parking for each component. For example, a hotel with a gift shop shall provide the parking spaces required by Table 3-8 for a hotel (e.g., the guest rooms), and for the gift shop.

e. If a fractional number is obtained in calculations performed in compliance with this Subsection, one additional parking space shall be required for a fractional unit of 0.50 or above, and no additional space shall be required for a fractional unit of less than 0.50.

TABLE 3-8 - PARKING REQUIREMENTS IN THE CBD BY LAND USE

Land Use Type:	Vehicle Spaces Required
Bars, cocktail lounges, restaurants, and taverns	1 space for each eight seats or 1 space for each 400 sf of floor area, whichever would yield more spaces.
Lodging	
Bed and breakfast inns Hotels or motels	1 space for each unit, plus 1 space for the manager or owner.
Residential dwelling units	1 space for each dwelling unit.
Retail commercial and office uses	1 space for each 600 sf of floor area.

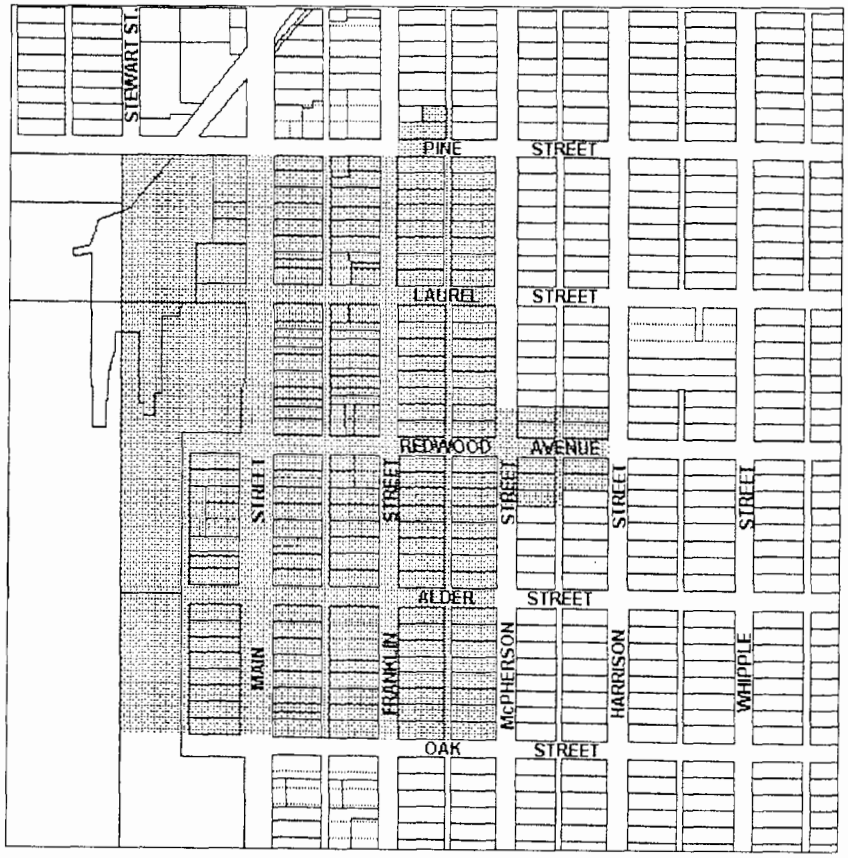

Figure 3-7 – CBD Special Parking Combining Zone

3. **Parking in lieu fee.** Parking requirements in the CBD Special Parking Combining Zone may be waived **at the discretion of the approval authority**, if the owner of the subject property pays a parking in lieu fee to the City in compliance with this Subparagraph.

   a. In lieu of providing the off-street parking spaces required by this Subsection, these requirements may be satisfied by the payment to the City of an in lieu parking fee established by the Council and identified in the City's Fee Schedule for both the use of existing structures and for new structures for each required off-street parking space which is not provided.

   b. ***Parking in-lieu fees may be authorized in the CBD Special Parking Combining Zone for changes of use or projects for which provision of sufficient parking on site is not possible. Parking in-lieu fees are discouraged for changes of use or new development that can accommodate required parking on site*** The funds shall be deposited with the City in a special fund and shall be used and expended ~~exclusively~~ for the purpose of acquiring and developing off-street parking facilities located insofar as reasonable in the general vicinity of the structures for which in lieu payments were made **as well as for meeting parking needs through strategies to reduce parking demand or to improve access to parking**. [*CITY REQUESTED MOD*]

D. Parking reduction for small recycling collection facilities.

1. A reduction in vehicle parking spaces as provided in Table 3-9 may be allowed within an established nonresidential parking facility to accommodate a small recycling collection facility, when developed in compliance with Section 18.42.150 (Recycling Facilities).

TABLE 3-9 - PARKING REDUCTION FOR RECYCLING

Number of Available Vehicle Parking Spaces	Maximum Reduction (in vehicle spaces)
0-25	0
26-35	2
36-49	3
50-99	4
100+	5

2. A maximum five-space reduction shall be allowed when not in conflict with parking needs of the host nonresidential use.

18.36.090 - Parking Design and Development Standards

Required parking areas shall be designed, constructed, and properly maintained in compliance with the following requirements. Except where noted, the Director may modify the requirements of this Section through Minor Use Permit approval (Section 18.71.060).

A. **Location of parking.** Parking areas shall be located as follows:

1. **Residential.** Residential parking shall be located on the same parcel as the uses served. Temporary (overnight) parking is allowed within required setback areas only on a paved driveway.

2. **Nonresidential.** Nonresidential parking shall be located on the same parcel as the uses served or within 300 feet of the parcel if shared parking or public parking facilities are used to meet parking requirements.

   a. Nonresidential parking shall not be located within a required front setback.

   b. Parking may be located within a required side or rear setback; provided that it is separated from the side or rear property line by a minimum five-foot wide landscaped area.

3. **Within the Downtown.** Parking within the Downtown area identified by Subsection 18.36.080.C, Figure 3-7 (CBD Special Parking Combining Zone), shall not be located between a primary building and the fronting street.

B. **Access to parking.** Access to parking areas shall be provided as follows for all parking areas other than garages for individual dwelling units.

1. Parking areas shall provide suitable maneuvering area so that vehicles enter from and exit to a public street in a forward direction only.

   a. Parking lots shall be designed to prevent access at any point other than at designated access drives.

   b. Single- and multi-family dwellings units are exempt from this requirement, unless specifically required by conditions of a discretionary permit.

   c. This requirement does not apply to alleys, unless so specified in a specific zoning district.

2. A nonresidential development that provides 50 or more parking spaces shall have access driveways that are not intersected by a parking aisle, parking space, or another access driveway for a minimum distance of 20 feet from the street right-of-way, to provide a queuing or stacking area for vehicles entering and exiting the parking area. See Figure 3-8.

3. A minimum unobstructed clearance height of 14 feet shall be maintained above areas accessible to vehicles within nonresidential developments.

4. The design of parking lots on adjacent parcels may be required to provide for joint use and access, with cross parking easements, to limit access points to public

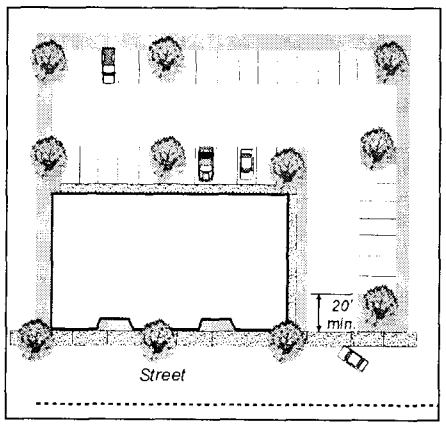

Figure 3-8 – Queuing Area

rights-of-way, and encourage motorists to park once to complete multiple tasks.

B. Access to adjacent sites.

1. **Nonresidential developments.**

   a. Applicants for nonresidential developments are encouraged to provide on-site vehicle access to parking areas on adjacent nonresidential properties to provide for convenience, safety, and efficient circulation.

   b. A joint access agreement running with the land shall be recorded by the owners of the abutting properties, as approved by the Director, guaranteeing the continued availability of the shared access between the properties.

2. **Residential developments.** Shared pedestrian access between adjacent residential developments is also strongly encouraged.

D. Parking stall and lot dimensions.

1. **Minimum parking space and driveway dimensions.** Each parking stall, ~~driveway,~~ and other parking lot features shall comply with the minimum dimension requirements in Table 3-10, and as illustrated in Figures 3-8 and 3-9. The Director shall not reduce these requirements.

TABLE 3-10 - MINIMUM PARKING SPACE CONFIGURATION

Minimum Uni-Stall Requirements	
Width	**Length**
9 ft	18 ft

Angle of Parking (in degrees)	Space Width (in feet)	Curb Length (per vehicle)	Space Depth (from curb)	Driveway Width (in feet)
Parallel	9 ft	23 ft 0 in	9 ft 0 in	12 ft
45	9 ft	12 ft 9 in	19 ft 2 in	14 ft
60	9 ft	10 ft 5 in	20 ft 2 in	19 ft
90	9 ft	9 ft 0 in	18 ft 0 in	23 ft

2. **Space width abutting a fence or wall.** When the length of a parking space abuts a fence or wall, the required width of the parking space shall be increased by a least one foot.

3. **Space length for perpendicular parking abutting a planter.** The front two feet of the required length of a parking space may overhang the planter.

4. **Compact parking spaces prohibited.** Compact parking spaces (a space smaller in size than that required by this Chapter) shall not be allowed. The Director may not modify this prohibition, except to accommodate the planting of trees within a parking lot.

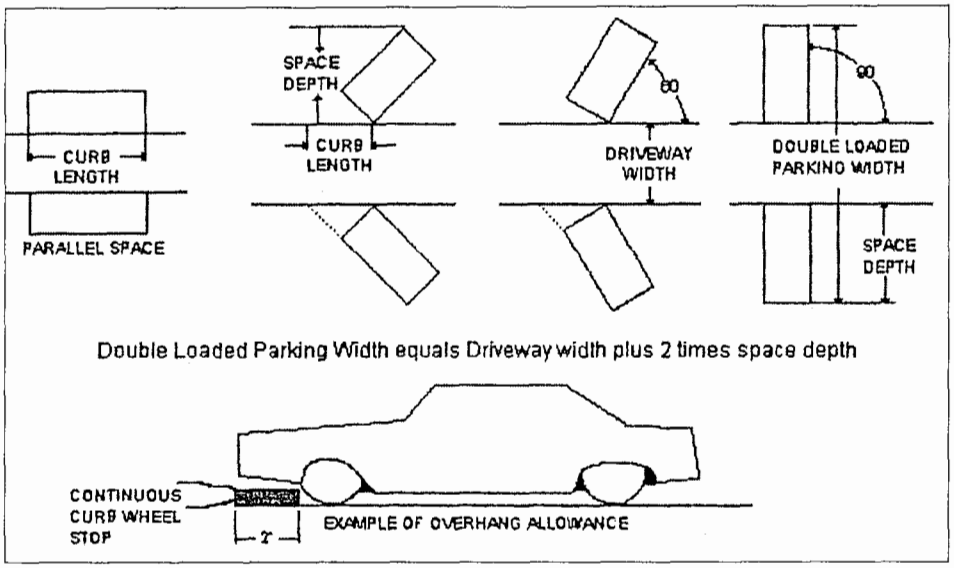

Figure 3-9 – Parking Space Dimensions

E. **Landscaping.** Landscaping shall be provided in compliance with Section 18.34 (Landscaping Standards).

F. **Lighting.** Lighting shall be provided in compliance with Section 18.30.070 (Outdoor Lighting).

G. **Striping and identification.**

1. Parking spaces shall be clearly outlined with four-inch wide lines painted on the parking surface.

2. The striping shall be continuously maintained in a clear and visible manner in compliance with the approved plans.

3. The re-striping of any parking space or lot other than to maintain existing striping shall require the prior approval of a re-striping plan by the City Engineer.

H. **Surfacing.**

1. All parking spaces and maneuvering areas shall be surfaced with asphalt, concrete pavement, or comparable material as determined by the City Engineer and shall be graded to dispose of all surface water to the satisfaction of the City Engineer.

2. Required parking areas in the RR, RS, or RL zoning districts may be surfaced with gravel, decomposed granite, or other all-weather surface as determined to be appropriate by the City Engineer.

3. All grading plans relating to the parking facilities shall be reviewed and approved by the City Engineer before any work can commence.

I. **Tandem parking.** Use of tandem parking (when one space is located directly behind another) shall not be allowed, except for single-family dwellings and duplex units, and only when both spaces are assigned to the same dwelling unit. The Director may not modify this prohibition.

J. **Wheel stops/curbing.**

1. Continuous concrete curbing at least six inches high and six inches wide shall be provided for parking spaces located adjacent to fences, walls, property lines, landscaped areas, and structures.

2. Individual wheel stops may be provided in lieu of continuous curbing only when the parking is adjacent to a landscaped area, and the drainage is directed to the landscaped area.

3. When provided, wheel stops shall be placed to allow for two feet of vehicle overhang area within the dimension of the parking space.

18.36.100 - Driveways and Site Access

Each driveway providing site access from a street, alley, or other public right-of-way shall be designed, constructed, and properly maintained in compliance with the following. The Director may modify the requirements of this Section through Minor Use Permit approval (Section 18.71.060).

A. **Number of driveways.**

1. **Single-family dwellings and duplexes.** A single-family dwelling or duplex shall be allowed one driveway **from the same street**, except that:

   a. A circular driveway may be allowed on a parcel with ~~70~~ **200** feet or more of street frontage; and

   c. A parcel within the RR, RS, or RL zoning districts with a frontage of 200 feet or more may have two separate driveways; provided that they are separated by a minimum of 100 feet, or lesser distance as approved by the City Engineer based on consideration of site topography and traffic safety.

2. **Multi-family and nonresidential projects.**

   a. A multi-family or nonresidential development project on a parcel of two acres or less shall be limited to a maximum of two driveways, unless the City Engineer determines that more than two driveways are required to accommodate the traffic for the project.

   b. Whenever a property has access to more than one street, access shall be generally limited to the lowest volume street where the impact of a new access will be minimized.

3. **Shared driveways.** The review authority may require development on smaller parcels to be planned with access along one side property line, and consolidated with the access driveway on the adjacent parcel, where practical, to limit the total number of access points on a street segment, and minimize conflicts with traffic flow.

4. **Driveways, and sidewalks. One of the General Plan Circulation Element's main objectives is to "encourage public transportation, bicycle, and pedestrian movement, and other alternatives to the single-occupant vehicle." Consistent with this, driveways shall connect to alleys instead of streets, when possible, in order to minimize the point of conflicts between motor vehicles and pedestrians walking on sidewalks. For this reason, the size of driveways and the number of driveways which cross sidewalks shall be kept to a minimum.** [Requested City MOD]

B. **Distance from street corners.** Each driveway shall be separated from the nearest street intersection as follows, except where the City Engineer allows less separation:

1. A minimum of 150 feet from the nearest intersection, as measured from the centerline of the driveway to the centerline of the nearest travel lane of the intersecting street; and

2. For parcels with frontages less than 150 feet, the minimum distance shall be 100 feet.

C. **Driveway spacing.** Driveways shall be separated along a street frontage as follows.

1. **Single-family and duplex residential developments.** Driveways shall be separated by at least six feet, unless a shared, single driveway is approved by the City Engineer. The six-foot separation shall not include the transition or wing sections on each side of the driveway.

2. **Multi-family and nonresidential developments.** Where two or more driveways serve the same or adjacent multi-family or nonresidential development, the centerline of the driveways shall be separated by a minimum of 50 feet. The City Engineer may approve exceptions to this standard.

D. **Driveway dimensions.**

1. **Single-family dwelling.** Each single-family dwelling shall be provided a driveway with a minimum width of ~~12~~ **10** feet and **a maximum of 20 feet, preferably from an alley. If the driveway connects a garage to an alley, it shall have a minimum length of 10 feet. If the driveway connects to a street, it shall have** a minimum length of ~~20~~ **23** feet from the back of the sidewalk, or the edge of the right-of-way where there is no sidewalk.

2. **Multi-family and nonresidential development.**

a. A driveway for a multi-family or nonresidential development **which connects to a parking lot of nine or more spaces**, shall have a minimum paved width of ~~13~~ **11** feet for a one-way driveway and ~~26~~ **22** feet for a two-way driveway.

b. A driveway for a multi-family or nonresidential development which connects to a parking lot of eight or fewer spaces shall have a paved width of 10 feet.

~~b. The maximum driveway width shall be 35 feet, exclusive of any area provided for a median divider.~~

c. If the City anticipates the parking lot will generate higher than normal turnover of vehicles (such as generated by a take-out restaurant) or larger than normal vehicles (such as generated by a warehouse) then the City may require additional width for driveways. [*CITY REQUESTED MOD*]

3. **Minimum paved length.** Where unpaved driveways are otherwise allowed by this Development Code or the review authority, each driveway shall be paved with concrete or asphalt for a minimum length of 20 feet from the public right-of-way.

E. **Clearance from obstructions.**

1. The nearest edge of a driveway curb cut shall be at least three feet from the nearest property line, the centerline of a fire hydrant, light standard, traffic signal, utility pole, or other similar facility.

2. Street trees shall be a minimum of 10 feet from the driveway access, measured at the trunk.

3. A driveway shall have an overhead clearance of 14 feet in height except within a parking structure, which may be reduced to seven feet, six inches.

F. **Traffic safety visibility areas.** Structures or landscaping over 42 inches in height shall not be allowed within a traffic safety visibility area, with the exception of trees with the canopy trimmed to a minimum of 6 feet in height. See Section 18.30.060.E.

G. Surfacing.

1. Within the multi-family and nonresidential zoning districts, driveways shall be paved and permanently maintained with asphalt, concrete, or approved paving units.

2. Within other zoning districts (e.g., RR, RS, and RL), driveways may be constructed with the use of other all-weather surfacing as determined to be appropriate by the City Engineer, where it is first determined that a surface other than asphalt or concrete is consistent with the driveways of similar properties in the vicinity, and that the alternate surface will not impair accessibility for emergency vehicles.

3. A driveway with a slope of 15 percent or more shall be paved with asphalt or concrete in all cases.

18.36.110 - Loading Space Requirements

Off-street loading spaces shall be provided as required by this Section. The Director may modify these requirements through Minor Use Permit approval (Section 18.71.060), where the Director first determines that the operating, shipping, and delivery characteristics of the use do not require the number or type of loading spaces required by this Section.

A. **Number of loading spaces required.** Nonresidential uses shall provide off-street loading spaces in compliance with Table 3-11. Requirements for uses not listed shall be determined by the Director based upon the requirements for comparable uses.

TABLE 3-11 - REQUIRED OFF-STREET LOADING SPACES

Type of Land Use	Total Gross Floor Area	Loading Spaces Required
Industrial, manufacturing, research and development, institutional, and service uses	5,000 to 10,000 sf.	1
	10,001 + sf.	1 for each additional 10,000 sf plus additional as required by Director.
Office uses	5,000 to 25,000 sf.	1
	25,001 + sf.	1 for each additional 25,000 sf plus additional as required by Director.
Retail commercial and other allowed nonresidential uses	5,000 to 10,000 sf.	1
	10,001 + sf	1 for each additional 10,000 sf plus additional as required by Director.

B. **Standards for off-street loading areas.** Off-street loading areas shall be provided in compliance with the following.

1. **Dimensions.** Loading spaces shall be a minimum of 12 feet in width, 40 feet in length, with 14 feet of vertical clearance.

2. **Lighting.** Loading areas shall have lighting capable of providing adequate illumination for security and safety; lighting shall also comply with the requirements of Section 18.30.070 (Outdoor Lighting).

3. **Location.** Loading spaces shall be:

   a. As near as possible to the main structure and limited to the rear two-thirds of the parcel, if feasible;

   b. Situated to ensure that the loading facility is screened from adjacent streets;

   c. Situated to ensure that loading and unloading takes place on-site and in no case faces a public street, or is located within a required front setback, adjacent public right-of-way, or other on-site traffic circulation areas;

   d. Situated to ensure that all vehicular maneuvers occur on-site. The loading areas shall allow vehicles to enter from and exit to a public street in a forward motion only; and

   e. Situated to avoid adverse impacts upon neighboring residential properties and located no closer than 100 feet from a residential zoning district unless adequately screened, and authorized through Design Review approval in compliance with Section 18.71.050.

4. **Loading ramps.** Plans for loading ramps or truck wells shall be accompanied by a profile drawing showing the ramp, ramp transitions, and overhead clearances.

5. **Screening.** Loading areas shall be screened from abutting parcels and streets with a combination of dense landscaping and solid masonry walls with a minimum height of six feet.

6. **Striping.**

   a. Loading spaces shall be striped, and identified for Aloading only.@

   b. The striping and "loading only" notations shall be continuously maintained in a clear and visible manner in compliance with the approved plans.

7. **Surfacing.**

   a. All loading areas shall be surfaced with asphalt, concrete pavement, or comparable material as determined by the City Engineer and shall be graded to dispose of all surface water to the satisfaction of the City Engineer.

   b. All grading plans relating to the loading facilities shall be reviewed and approved by the City Engineer before any work can commence.

CHAPTER 18.38 - SIGNS

Sections:

18.38.010 - Purpose
18.38.020 - Applicability
18.38.030 - Sign Permit Requirements
18.38.040 - Exemptions from Sign Permit Requirements
18.38.050 - Prohibited Signs
18.38.060 - General Requirements for All Signs
18.38.070 - Zoning District Sign Standards
18.38.080 - Standards for Specific Sign Types
18.38.090 - Nonconforming Signs
18.38.100 - Public Nuisance, Abatement, and Violation
18.38.110 - Judicial Review

18.38.010 - Purpose

The regulations established by this Chapter are intended to appropriately limit the placement, type, size, and number of signs allowed within the City, and to require the proper maintenance of signs. The purposes of these limitations and requirements are to:

A. Avoid traffic safety hazards to motorists, bicyclists, and pedestrians, caused by visual distractions and obstructions;

B. Promote the aesthetic and environmental values of the community by providing for signs that do not impair the attractiveness of the City as a place to live, work, and shop;

C. Provide for signs as an effective channel of communication, while ensuring that signs are aesthetically proportioned in relation to adjacent structures and the structures to which they are attached;

D. Safeguard and protect the public health, safety, and general welfare; and

E. Advance community design standards and safety standards as set forth in the Community Design and Safety Elements of the General Plan.

18.38.020 - Applicability

A. **Signs regulated.** The requirements of this Chapter shall apply to all signs in all zoning districts.

B. **Applicability to sign content.** The provisions of this Chapter do not regulate the message content of signs (sign copy), regardless of whether the message content is commercial or noncommercial.

C. **Definitions.** Definitions of the specialized terms and phrases used in this Chapter may be found in Article 10 (Glossary) under "Sign."

18.38.030 - Sign Permit Requirements

A. **Sign permit required.**

1. **Approval required.** No sign shall be constructed, installed, or modified, unless a sign permit is first obtained in compliance with this Section, or the sign is allowed without a sign permit by Section 18.38.040 (Exemptions from Sign Permit Requirements).

2. **Compliance with standards required.** No sign permit shall be approved for an existing or proposed sign unless the sign is in compliance with all applicable requirements of this Chapter.

3. **Building Permit required.** A Building Permit may also be required for sign construction/installation.

4. **Temporary signs.** Temporary signs shall comply with Sections 18.38.040.C (Temporary signs), and Section 18.38.080 (Standards for Specific Sign Types).

B. **Review authority.**

1. **Director.** The Director shall review all sign permit applications and approve only those that comply with the findings required in Subsection D. (Findings for approval). The Director may also refer a sign permit application to the Commission for review and decision, either for the individual sign permit, or as part of a development project that is otherwise subject to design review. Commission review of a sign permit referred by the Director shall require no additional fee.

2. **Conditions of approval.** The review authority may require conditions of approval that are deemed reasonable and necessary to achieve the purpose, intent, and objectives of this Chapter.

3. **Approval criteria**. The approval or non-approval of an application for a sign permit shall be guided by the criteria set forth in this Chapter. If the review authority finds that a proposed sign substantially complies with the standards of this Chapter, the review authority shall approve the sign.

4. **Appeal.** A decision of the Director or Commission in compliance with this Chapter may be appealed in compliance with Chapter 18.92 (Appeals).

C. **Sign permit procedures.**

1. **Application requirements.** An application for a sign permit shall be prepared, filed, and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing).

2. **Application contents.** Each application shall include all fees required by the City's Fee Schedule, and all of the following:

   a. Plans for the sign, drawn to scale, showing the proposed location of the sign in relation to other signs on the site and adjacent properties, structures, and uses;

   b. A complete color scheme for the sign, and design drawing of the sign;

   c. Sufficient other details of the proposed sign to show that it complies with the provisions of this Chapter;

   d. Written permission from the property owner for the placement of the proposed signs on the site;

   e. Computation of the total sign area, the area of each individual sign, the height of each sign, and the total number of existing and proposed signs on the site;

f. An accurate indication on the site plan of the proposed location of each present and future sign of any type, whether requiring a permit or not;

g. If a sign permit application is filed for a site where signs exist, the application shall include a schedule for bringing into conformance within five years of the application date, all signs not conforming with the requirements of this Chapter as of the date of application; and

h. Other information as required by the Department.

D. **Findings for approval.** The approval of a sign permit shall require that the review authority first make all the following findings, as applicable.

1. The proposed signs do not exceed the standards of Sections 18.38.070 (Zoning District Sign Standards) and 18.38.080 (Standards for Specific Sign Types), and are of the minimum size and height necessary to enable pedestrians and motorists to readily identify the facility or site from a sufficient distance to safely and conveniently access the facility or site;

2. That the placement of the sign on the site is appropriate for the height and area of a freestanding or projecting sign;

3. That a flush or projecting sign relates to the architectural design of the structure. Signs that cover windows, or that spill over natural boundaries, and/or cover architectural features shall be discouraged;

4. The proposed signs do not unreasonably block the sight lines of existing signs on adjacent properties;

5. The placement and size of the sign will not impair pedestrian or vehicular safety;

6. The design, height, location, and size of the signs are visually complementary and compatible with the scale, and architectural style of the primary structures on the site, any prominent natural features on the site, and structures and prominent natural features on adjacent properties on the same street; and

7. The proposed signs are in substantial conformance with the design criteria in Subsection 18.38.060.F (Design criteria for signs).

E. **Expiration and extension of sign permit approval.**

1. Approval of a sign permit shall expire 12 months from the date of approval unless the sign has been installed, or a different expiration date is stipulated at the time of approval. Before the expiration of a sign permit, the applicant may apply to the Department for an extension of an additional 12 months from the original date of expiration.

2. The expiration date of the sign permit shall be automatically extended to concur with the expiration date of the companion Building Permit or other applicable permits for the project.

18.38.040 - Exemptions from Sign Permit Requirements

The following signs are allowed without sign permit approval, provided that they comply with Section 18.38.060 (General Requirements for All Signs), and any required Building Permit is obtained.

A. **Nonstructural modifications and maintenance.**

1. Modifications to sign copy on conforming signs, or changes to the face or copy of conforming changeable copy signs;

2. The normal maintenance of conforming signs, except as identified in Subsection 18.38.060.I (Maintenance of signs).

B. **Identification signs.** Street identification, and house identification signs not exceeding two square feet.

C. **Temporary signs.** The following temporary signs are allowed without a sign permit.

1. **Real estate signs.** Real estate signs are allowed without a sign permit in compliance with California Civil Code Section 713, and subject to the following requirements.

a. **Commercial, industrial, and other non-residential zoning districts.** Properties within commercial, industrial, and other non-residential zoning districts shall be allowed one real estate sign of no more than 16 square feet, with a maximum height for freestanding signs of six feet, for each parcel frontage.

b. **Residential zoning districts.**

(1) **On-site signs.** One non-illuminated real estate sign not more than four square feet in area, including riders, advertising the sale or lease of a parcel or structure, may be located on the property it advertises.

(2) **Off-site directional signs.** Off-site real estate directional signs not more than four square feet in area, including riders, may be located on private property, provided that they do not obstruct or impede pedestrian or vehicular traffic, and are not secured to prevent removal. No real estate sign shall be permitted within a public right-of-way.

2. **Subdivision signs.** Signs advertising land subdivisions in any zoning district shall be limited to one two-sided sign of 32 square feet in area placed at a right angle to the street, or two one-sided signs of 32 square feet in area each facing the street. The signs shall be at least 200 feet apart and shall be placed only on the subdivision site, or on land leased by the subdivider. The signs shall be removed within 30 days after the final lot of the subdivision is sold. The signs shall be non-illuminated.

3. **Construction signs.** Construction identification signs may be allowed in all zoning districts in compliance with the following standards.

a. The number, type, placement, and size of signs shall comply with the sign requirements of Section 18.38.070 (Zoning District Sign Standards) for the applicable zoning district.

b. The signs shall be removed prior to final building inspection or the issuance of a Certificate of Occupancy.

4. **Political signs.** Political signs are allowed in compliance with the following requirements.

a. Prior to the placement of a political sign, the agent/candidate shall post with the City Clerk a plan for the removal of all signs placed in Commercial and Industrial districts and removal of all signs placed by the candidate or his/her agents in Residential districts. In the event that the signs are not removed in compliance with the plan for removal, the City shall provide notice and summary abatement. The removal plan shall also apply to signs located at campaign or party headquarters.

b. No political sign shall be erected prior to 60 days before the election to which the sign pertains.

c. In Commercial and Industrial zoning districts, each political sign and the total political signage on a parcel shall not exceed 32 square feet in area.

d. In Residential districts, no political sign shall exceed four square feet in area.

e. No political sign shall be located in a public right-of-way.

f. All political signs shall be removed within 10 days after the election.

D. **Governmental signs.** Signs installed by the City, County, or a Federal or State governmental agency, because of their responsibilities for the protection of public health, safety, and general welfare, including the following signs:

1. Emergency and warning signs necessary for public safety or civil defense;

2. Traffic signs erected and maintained by an authorized public agency;

3. Legal notices, licenses, permits, and other signs required to be displayed by law;

4. Signs showing the location of public facilities (e.g., public telephones, restrooms, and underground utilities); and

5. Any sign, posting, notice, or similar sign placed by or required by a governmental agency in carrying out its responsibility to protect public health, safety, and general welfare.

E. **Miscellaneous signs.**

1. Address numbers not exceeding 12 inches in height.

2. Official flags. Flags of national, State, or local governments, or nationally recognized religious, fraternal, or public service agencies; provided, the length of the flag shall not exceed one-fourth the height of the flag pole, and the flag is not used for commercial advertising.

3. Symbols, pictures, patterns, and illumination approved as architectural ornamentation or decoration by the review authority.

4. Historical plaques erected and maintained by non-profit organizations, memorials, building cornerstones, and date-constructed stones, provided that none of these exceed four square feet.

5. Service station price signs required by State law.

6. Signs or displays located entirely inside of a building.

7. Signs created by landscaping.

8. Small, temporary signs, otherwise in conformance with size, number, and duration requirements of this chapter, that address non-commercial issues.

18.38.050 - Prohibited Signs

All signs not expressly allowed by this Chapter shall be prohibited. Examples of prohibited signs include the following:

A. Abandoned signs;

B. Animated signs, including electronic message display signs, and variable intensity, blinking, or flashing signs, or signs that emit a varying intensity of light or color, except time and temperature displays (which are not considered signs);

C. Balloons and other inflatable devices;

D. Billboards and any other off-premise signs, except as allowed by Civil Code Section 713 (Section 18.38.040.C.b(2) - Offsite Directional signs);

E. Flags, except as specifically allowed by Subparagraph 18.38.040.E.2 (Official flags);

~~F. Illegal signs;~~

~~G~~F. Moving signs, except barber poles, and other similar signs that are stationary but contain moving parts;

~~H~~G. Obscene signs;

~~I~~H. Pennants and streamers, except in conjunction with a athletic event, carnival, circus, or fair, or as allowed in Subsection 18.38.070.F (Temporary signs)

~~J. Pole signs and other freestanding signs over six feet in height;~~

~~K~~I. Roof signs;

~~L~~J. Because of the City's compelling interest in ensuring traffic safety, signs that simulate in color, size, or design, any traffic control sign or signal, or that make use of words, symbols, or characters in a manner that interferes with, misleads, or confuses pedestrian or vehicular traffic;

~~M~~K. Signs in the form or shape of a directional arrow, or otherwise displaying a directional arrow, except as may be approved by the review authority, or as may be required for safety and convenience and for control of vehicular and pedestrian traffic within the premises of the subject use;

~~N~~L. Signs attached to or suspended from a boat, float, vehicle, or other movable objects parked within a public right-of-way, or in a location on private property that is visible from a public right-of-way, except a sign painted directly upon, magnetically affixed to, or permanently affixed to the body or other integral part of the vehicle;

~~O~~M. Signs burned, cut, or otherwise marked on or otherwise affixed to a hillside or tree;

~~P~~N. Signs with reflective material;

~~Q~~O. Signs within the public right-of-way, except for signs installed or maintained by a government agency for traffic safety and directional purposes;

~~R~~P. Signs in residential zoning districts, except as specifically allowed in this Chapter;

~~S~~Q. Signs in storage or in the process of assembly or repair, located outside on premises other than that advertised in the signs, that are visible from a public right-of-way; and

~~T~~R. Temporary and portable signs, except as specifically allowed by Subsection 18.38.070.F. (Temporary signs).

18.38.060 - General Requirements for All Signs

The following rules shall govern the computation of sign area:

A. **Sign area measurement.** Sign area measurement to determine compliance with the sign area limitations of this Chapter shall occur as follows.

1. **Surface area.** The surface area of a sign shall be calculated by enclosing the extreme limits of all framing, emblem, logo, representation, writing, or other display within a single continuous perimeter composed of squares or rectangles with no more than eight perimeter lines. See Figure 3-10.

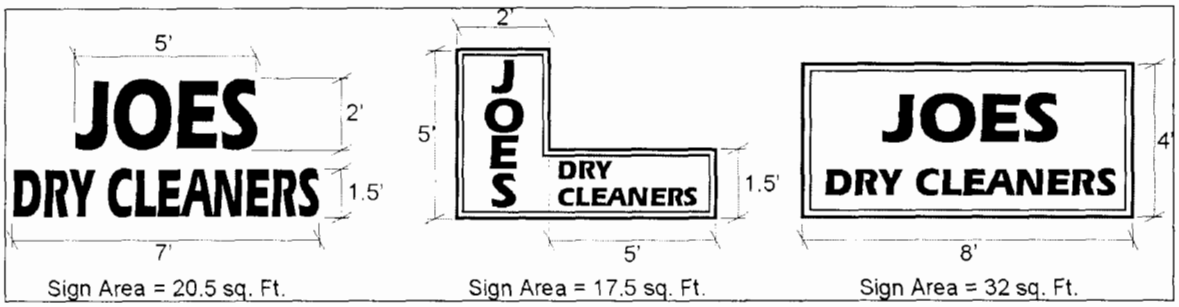

Figure 3-10 – Sign Area Measurement

2. **Sign structure.** Supporting bracing or framework that is clearly incidental to the display itself shall not be computed as sign area.

3. **Multi-faced signs.** Within the CBD zoning district, the sign area for a sign with more than one face shall be computed by adding together the area of all sign faces. Outside of the CBD zoning district, the area of a double-faced sign shall be calculated for one face only, unless the two faces are not back-to-back, parallel, and/or are separated by more than 12 inches.

3. **Three-dimensional objects.** The area of a sign consisting of one or more three-dimensional objects (e.g., balls, cubes, clusters of objects, sculpture, or statue-like trademarks), shall be measured as their maximum projection upon a vertical plane. See Figure 3-11.

4. **Time and/or temperature device.** The area of any time and/or temperature device incorporated into a sign shall not be included in the calculation of total sign area.

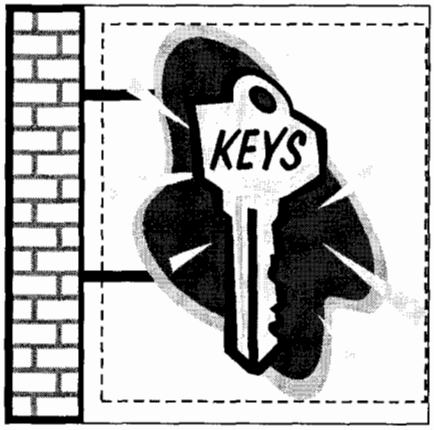

Figure 3-11 – 3-Dimensional Sign Measurement

B. **Sign height measurement.** The height of a sign shall be computed as the vertical distance from the lowest point of the base of the sign at normal grade, to the top of the highest attached component of the sign. See Figure 3-11. Normal grade shall be construed to be the lower of either the:

1. Existing grade before construction; or

2. Newly established grade after construction, exclusive of any berming, filling, mounding, or excavating solely for the purpose of locating the sign.

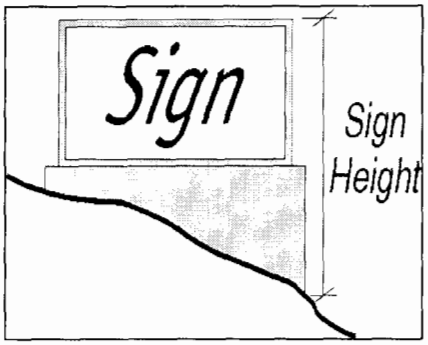

Figure 3-12 – Sign Height Measurement

C. **Sign height limitations.**

1. **Maximum height for freestanding signs.** A freestanding sign shall not exceed a height of six feet above normal grade in the residential and PF zoning districts. Freestanding signs shall be limited to 14 feet above normal grade in all other districts.

2. **Maximum height for signs on structures.** The top of a sign mounted on a structure shall not extend higher than the lesser of:

   a. The window sills of the second floor;

   b. The top of the wall to which the sign is attached, in the case of a one-story structure; or

   c. 20 feet above normal grade.

D. **Sign location requirements.** Each sign shall be located in compliance with the following requirements, and all other applicable provisions of this Chapter.

1. Each sign shall be located on the same site as the subject of the sign, except as otherwise allowed by this Chapter.

2. No sign shall project over public property, or the public right-of-way, except where the City has granted an encroachment permit in addition to a sign permit.

3. No sign shall be placed so as to interfere with the operation of a door, window, or fire escape.

E. **Signs placed within the public right-of-way.**

1. No sign shall be allowed in the public right-of-way except for the following:

   a. Public signs erected by or on behalf of a governmental agency to convey public information, identify public property, post legal notices, or direct or regulate pedestrian or vehicular traffic;

   b. Bus stop signs installed by a public transit company;

   c. Informational signs of a public utility regarding its lines, pipes, poles, or other facilities; or

   d. Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized work within the public right-of-way.

2. Any sign installed or placed within the public right-of-way other than in compliance with this Section shall be forfeited to the public and be subject to confiscation.

3. In addition to other remedies identified in Chapter 18.98 (Enforcement and Penalties), the City shall have the right to recover from the owner, or person placing the sign, the full costs for sign removal and disposal.

4. A sign permit shall not be required for City signs placed within the public right-of-way.

F. **Design criteria for signs.** The following design criteria shall be used in reviewing the design of individual signs. Substantial conformance with each of the following design criteria shall be required before a sign permit or Building Permit can be approved.

1. **Color.** Colors on signs and structural members should be harmonious with one another and relate to the dominant colors of the other structures on the site. Contrasting colors may be utilized if the overall effect of the sign is still compatible with the structure colors and prevailing colors in the surrounding neighborhood (where a theme can be identified).

2. **Design and construction.**

a. Proposed permanent signs should be designed by professionals (e.g., architects, building designers, landscape architects, interior designers, or those whose principal business is the design, manufacture, or sale of signs), or others who are capable of producing professional results.

b. All permanent signs should be constructed by persons whose principal business is building construction or a related trade including sign manufacturing and installation businesses, or others capable of producing professional results. The intent is to ensure public safety, achieve signs of careful construction, neat and readable copy, and durability so as to reduce maintenance costs and to prevent dilapidation.

3. **Materials and structure.**

a. Sign materials (including framing and supports) shall be representative of the type and scale of materials used on the primary onsite structure and on other onsite signs.

b. Materials for permanent signs shall be durable and capable of withstanding weathering over the life of the sign with reasonable maintenance.

c. The size of the structural members (e.g. columns, crossbeams, and braces) should be proportional to the sign panel they are supporting. In general, fewer larger supporting members are preferable to many smaller supports.

d. The use of individual letters incorporated into the building design is encouraged, rather than signs with background and framing other than the structure's wall(s).

4. **Street address.** The review authority may require that a sign include the street address of the site, where it determines that public safety and emergency vehicle response would be more effectively served than if the street address were displayed solely on one or more structures on the site.

G. **Copy design guidelines.** The City does not regulate the message content (copy) of signs; however, the following are principles of copy design and layout that can enhance the readability and attractiveness of signs. Copy design and layout consistent with these principles is encouraged, but not required.

1. Sign copy should relate only to the name and/or nature of the business or commercial center.

2. Permanent signs that advertise continuous sales, special prices, or include phone numbers, etc. should be avoided.
3. Information should be conveyed briefly or by logo, symbol, or other graphic manner. The intent should be to increase the readability of the sign and thereby enhance the identity of the business.
4. The area of letters or symbols should not exceed 40 percent of the background area in commercial districts or 60 percent in residential districts.
5. Freestanding signs should contain the street address of the parcel or the range of addresses for a multi-tenant center.

H. **Sign lighting.** Sign lighting shall be designed to minimize light and glare on surrounding rights-of-way and properties.

1. External light sources shall be directed and shielded so that they do not produce glare on any object other than the sign, and/or off the site of the sign.
2. The light illuminating a sign shall not be of an intensity or brightness that will interfere with the reasonable enjoyment of residential properties.
3. Sign illumination shall not blink, flash, flutter, or change 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 construed as traffic control devices.
5. Neither the direct nor reflected light from primary light sources shall create hazards for pedestrians or operators of motor vehicles.
6. Reflective-type bulbs and incandescent lamps that exceed 15 watts shall not be used so as to expose the face of the bulb or lamp to a public right-of-way or adjacent property.
7. Light sources shall utilize hard-wired flourescent or compact flourescent lamps, or other lighting technology that is of equal or greater energy efficiency.
8. Permanently installed illuminated panels, visible tubing, and strings of lights outlining all or a portion of a structure, other than lighting that is primarily for indirectly illuminating architectural features, signs, or landscaping, shall be deemed "signs" subject to this Chapter and shall be counted as part of the allowed sign area. Each line of tubing or lights shall be deemed to have a minimum width of at least six inches for the purpose of area calculation.

I. **Maintenance of signs.**

1. Each sign and supporting hardware, including temporary signs, shall be maintained in good repair and functioning properly at all times.
2. Any repair to a sign shall be of equal or better in quality of materials and design as the original sign.
3. A sign that is not properly maintained and is dilapidated shall be deemed a public nuisance, and may be abated in compliance with the Municipal Code.
4. When an existing sign is removed or replaced, all brackets, poles, and other supports that are no longer required shall be removed.

5. Unpainted areas shall be painted to match the adjacent portion of the structure or the sign support structure.

18.38.070 - Zoning District Sign Standards

Each sign shall comply with the sign type, area, height, and other restrictions provided by this Section, except as otherwise expressly provided in Section 18.38.080 (Standards for Specific Sign Types).

A. **Residential and PF zoning districts.** Each sign in a residential or PF zoning district shall comply with the following requirements.

TABLE 3-11 - SIGN STANDARDS RESIDENTIAL AND PUBLIC FACILITY ZONING DISTRICTS

Allowed Sign Types	Maximum Sign Height	Maximum Number of Signs Allowed per Parcel	Maximum Sign Area Allowed per Parcel
Wall or freestanding	Wall signs: below edge of roof; Freestanding: 6 ft	1 of either allowed sign type per street frontage	12 sf maximum each; 24 sf total for all signs

B. **Commercial and industrial zoning districts.** Each sign in the commercial and industrial zoning districts established by Section 18.14.020 (Zoning Map and Zoning Districts) shall comply with the requirements in Table 3-12, in addition to the provisions of Section 18.38.080 (Standards for Specific Sign Types), as applicable.

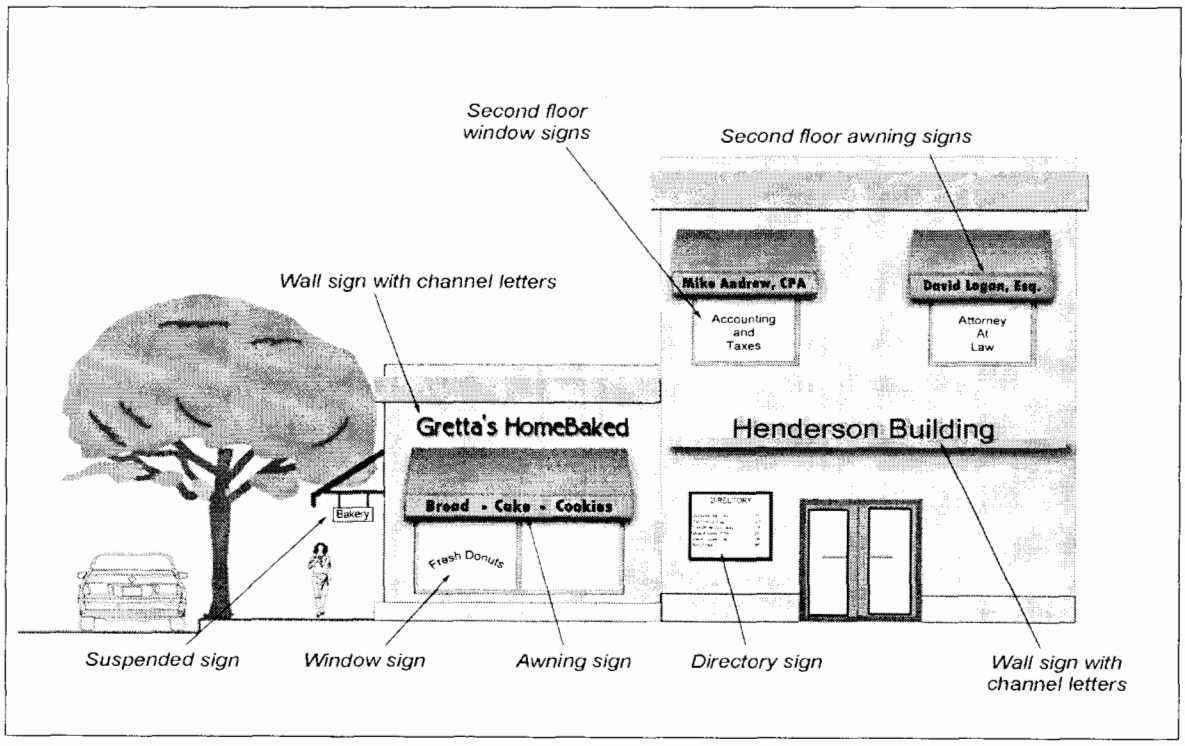

Figure 3-13 – Examples of sign types

TABLE 3-12 - SIGN STANDARDS FOR COMMERCIAL AND INDUSTRIAL ZONES

Allowed Sign Types	Maximum Sign Height	Maximum Number of Signs Allowed per Parcel	Maximum Sign Area
Ground-mounted and Ground-floor Signs			
Awning (18.38.080.B)	Below roof (1)	**Single tenant site or structure:** 3 of any combination of allowed sign types per primary structure frontage. 1 of any allowed sign type per secondary frontage. **Site or structure with 4 two or more tenants:** ~~1~~ **2** of any allowed sign ~~type~~ per business frontage.	**Maximum sign area per parcel.** The total sign area on a parcel shall comply with the following requirements. 1. 2 sf for each 3 linear ft of primary building frontage. 2. 0.5 additional sf for each linear foot of secondary building frontage. 3. Each use is allowed a total sign area of at least 25 sf regardless of frontage length. 4. The total sign area per use shall not exceed 100 sf. **Maximum sign area per building frontage.** The total area of all signs on a single structure frontage shall not exceed the total linear feet of that frontage. **Site with 4 or more tenants:** is allowed an additional freestanding identification sign of 0.25 sf for each linear ft of total primary structure frontage, up to 100 sf maximum.
Freestanding (18.38.080.C)	14 ft		
Projecting, Wall (18.38.080.E, 18.38.080.G)	Below roof (1)		
Suspended (18.28.080.G)	Below eave/ canopy; at least 8 ft above a walking surface		
Temporary/ Portable	See Sections 18.38.080.A and 18.38.080.F		
Window	See Section 18.38.080.H		
Second Floor Signs			
Awning, Projecting, Wall	Below roof (1)	1 per tenant space	12 sf for each tenant. 1 directory sign not to exceed 12 sf is also allowed to identify upper floor occupants.
Window	See Section 18.38.080.H		
Indoor Signs, and Outdoor Signs Not Visible from a Street			
Awning, Freestanding, Projecting, Suspended, Wall, Window	Below roof (1)	See Section 18.38.080, as applicable	

Notes:

(1) At least one foot below the top of a parapet, the sill of a second floor window, and/or the lowest point of any cornice or roof overhang.

18.38.080 - Standards for Specific Sign Types

Proposed signs shall comply with the following standards applicable to the specific sign type. Each sign type listed in this Section shall be included in the calculation of the total sign area allowed on a parcel by Section 18.38.070 (Zoning District Sign Standards), unless this Section explicitly provides otherwise. Each sign shall also comply with the sign area, height, and other requirements of Section 18.38.060, and all other applicable provisions of this Chapter. Any non-commercial message may be substituted for the copy on any commercial sign allowed by this Chapter.

A. **A-board and other portable sidewalk signs.** Each business may display one A-board or other portable sign in compliance with the following standards.

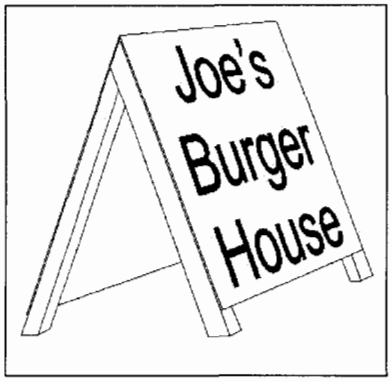

Figure 3-15 – A-Board sign

1. **Limitation on location.** An A-board or other portable sign shall be allowed only on private property.

2. **Sign size.** Each sign shall not exceed a width of 2-foot 6 inches. Sign height shall be limited to four feet. Sign height shall be measured perpendicular from the sidewalk surface to the highest point of the A-board sign.

4. **Sign placement.** A portable sidewalk sign shall be placed only on private property within the boundaries of the applicable business' street frontage, and shall be positioned so that it will not:

   a. Obstruct required ADA sidewalk clearance;

   b. Impede any line of sight for motorists at vehicular public right-of-way intersections, as recommended by the City Engineer; or

   c. Interfere with people exiting and entering parked cars.

5. **Design and construction standards.** The review authority shall approve an A-frame sign only if it first determines that the design and appearance of the sign, including any graphics and/or text, will reflect attractive, professional design, and that the sign will be durable and stable when in place.

6. **Stabilization.** The sign shall be stabilized to withstand wind gusts or shall be removed during windy conditions.

7. **Daily removal.** The sign shall be removed at the close of business each day.

8. **Maintenance.** The sign shall be continuously maintained in good condition with no peeling paint or other deterioration.

B. **Awning signs.** The following standards apply to awning signs in all zoning districts where allowed by Section 18.38.070 (Zoning District Sign Standards).

1. Signs on awnings are limited to ground level or second story occupancies only.

2. Awnings shall not be internally illuminated. Direct exterior lighting may be allowed. Translucent awning materials are prohibited.

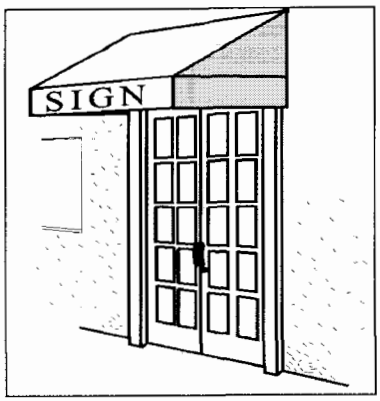

Figure 3-16 – Awning sign

C. **Freestanding signs.** The following standards apply to freestanding signs in all zoning districts where allowed by Section 18.38.070 (Zoning District Sign Standards).

1. Multiple signs shall be separated by a minimum of 75 feet to ensure adequate visibility for all signs. The review authority may waive this requirement where the locations of existing signs on adjacent properties would make the 75-foot separation impractical.

2. A sign shall not project over public property, vehicular easements, or rights-of-way, and shall not obstruct a traffic safety sight area, as determined by the review authority.

3. To assist emergency response personnel in locating the site, freestanding signs should contain an illuminated street address plate. Numbers should be a minimum of six inches in height. Street address numbers not exceeding six inches in height shall not be included in calculations of allowed sign area.

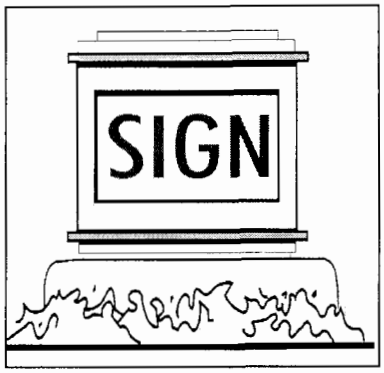

Figure 3-17 – Freestanding sign

D. **Murals.** A mural placed on the wall of a structure may be allowed in any commercial or industrial zoning district subject to Design Review, and as follows.

1. A mural without text visible from a public right-of-way may be approved in addition to (not counted as part of) the sign area allowed by Section 18.38.070 (Zoning District Sign Standards); a mural with text shall comply with the sign area limitations applicable to the site.

2. Murals that illustrate the local setting and history as sources of inspiration are encouraged.

3. The approval of a mural shall require that the review authority first find that the size, colors, and placement of the mural are visually compatible with the structure architecture, and that the mural will serve to enhance the aesthetics of the City.

E. **Projecting signs.** The following standards apply to projecting signs in all zoning districts where allowed by Section 18.38.070 (Zoning District Sign Standards).

1. The maximum projection of a sign from a structure wall shall not exceed eight feet or more than two-thirds of the width of the public sidewalk below. Any projection over a public right-of way shall require an Encroachment Permit.

2. The top of a projecting sign shall not exceed the lesser of 14 feet, eave height, parapet height, or sill height of a second floor window. No portion

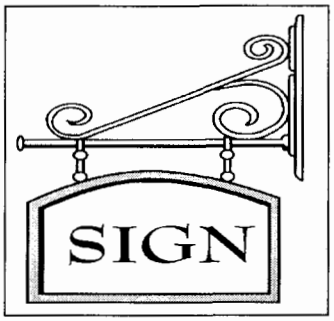

Figure 3-18 – Projecting sign

of the sign shall project above the eave line of a sloped roof or the top of the parapet on a flat roof.

3. A projecting sign shall maintain a minimum clearance of eight feet from the bottom of the sign to the finished grade below.

4. Icon signs using shapes or symbols uniquely suited to the business, creative shapes, and three-dimensional signs are encouraged. See Figure 3-19.

5. Each sign shall be graphically designed for pedestrians, with a maximum area of nine square feet on each sign face, regardless of the length of the building frontage. Within the CBD zoning district, no sign face shall exceed a maximum area of 12.5 square feet.

6. Sign supports shall be well-designed and compatible with the design of the sign.

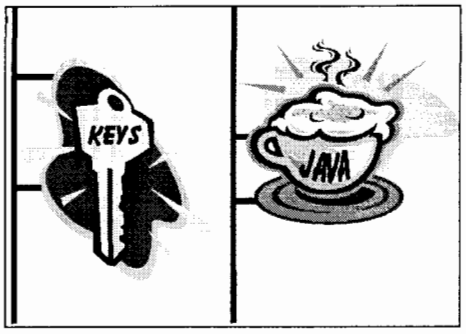

Figure 3-19 – Use of Icons/symbols

F. **Temporary signs.** Temporary signs other than A-boards are allowed subject to the following requirements. A-board signs are instead subject to the requirements of Subsection A.

1. **Banners and pennants.** Temporary banners and pennants on private property, except as identified in Section 18.38.050.E.8, shall comply with the following requirements.

   a. The use of a banner or pennants may be allowed only for a licensed business for a period not to exceed 30 days per year. A temporary sign permit may be issued for not less than two consecutive days, up to 30 days. A business is only allowed one temporary sign permit for banners per year. This is in addition to the 30 days allowed for a business grand opening banner.

   b. The application for a temporary sign permit for banners or pennants shall include the dates proposed by the applicant for scheduled banner use.

   c. A bond shall be posted for a banner permit as required by the Director. The bond may be revoked if the temporary banners are not removed within two days following their scheduled use.

2. **Other temporary signs.** Temporary signs may be authorized by the Director, upon submittal of a sign application, plan for removal, and the fees required by the City's Fee Schedule.

   a. **Maximum sign area.** In a residential zoning district, the combined area of temporary signs shall not exceed three square feet. In a commercial or industrial zoning district, the combined area of temporary signs shall not exceed that permitted for the non-corner lots in the district in which the sign will be placed, except as provided in Subsection F.2.f.

   b. **Maximum number of signs.** No more than one temporary sign shall be erected on a premise at a time.

   c. **Sign placement.** Temporary signs shall be subject to the same placement and height restrictions as permanent signs for the applicable zoning district, except as provided in Subsection G.2.f.

   d. **Time limits.** Temporary signs shall not be allowed for more than 30 consecutive days. Temporary signs shall not be allowed for a combined total of more than 60 days in a one-year period. Signs advertising a particular event shall be removed within 10 days after the event, except as provided in Subsection F.2.e.

e. **Inflatable or tethered signs.** Inflatable or tethered signs are permitted for special events and may be installed for a period not to exceed five consecutive days, no more than two times per year. These signs may exceed the maximum sign area and sign height standards for the applicable zoning district.

G. **Wall signs.** The following standards apply to wall signs in all zoning districts where allowed by Section 18.38.070 (Zoning District Sign Standards).

1. A wall sign may be located on any primary or secondary structure frontage.

2. The area of the largest wall sign shall not exceed seven percent of the area of the building facade on which the sign is mounted or painted, including the area of windows, doors, and recesses.

3. A wall sign shall not project more than 12 inches from the surface to which it is attached.

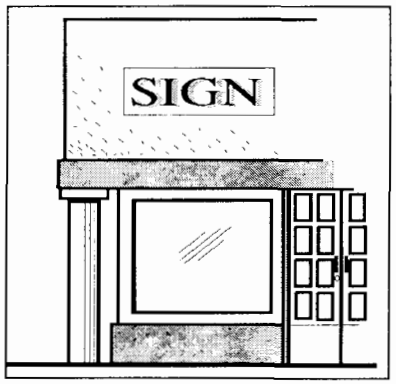

Figure 3-20 – Wall sign

H. **Window signs.** The following standards apply to permanent window signs where allowed by Section 18.38.070 (Zoning District Sign Standards).

1. **Maximum sign area.** Permanent window signs shall not occupy more than 20 percent of the total window area.

2. **Sign location.** Signs shall be allowed only on windows located on the ground level and second story of a structure frontage.

3. **Sign materials.** Signs shall consist of individual letters, logos, or symbols applied to, stenciled on, or etched into the glass surface; however, neon signs with transparent backgrounds may be hung inside the window glass.

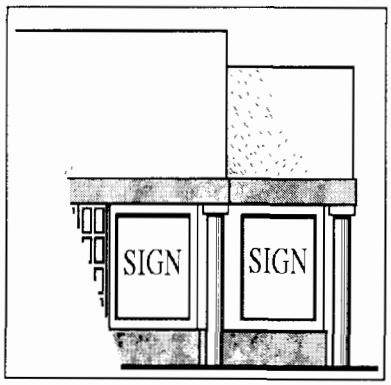

Figure 3-21 – Window Sign

18.38.090 - Nonconforming Signs

A nonconforming sign is any permanent or temporary sign that was legally established and maintained in compliance with the provisions of all applicable laws in effect at the time of original installation but that does not now comply with the provisions of this Development Code.

A. **General requirements.** A nonconforming sign shall not be:

1. Changed to another nonconforming sign;

2. Structurally altered to extend its useful life;

3. Enlarged;

4. Re-established after a business is discontinued for 30 days; or

5. Re-established after damage or destruction to 50 percent or more of the value of the sign, or its components, as determined by the Building Official.

Any interruption in the use of a nonconforming sign that continues for 60 days or more shall be deemed to be an abandonment of the sign. Subsequent use shall comply with the regulations of this Chapter. Non-occupation or non-operation of the building or business advertised shall be deemed an interruption of the use of the sign.

B. **Exceptions.** An administrative exception to the requirements of Subsection A. may be granted by the Commission, provided that the Commission shall make the following findings:

1. The new proposed sign is significantly more conforming in height and/or area than the existing sign; and

2. By approving the new sign, the exception will eliminate the existing nonconforming sign.

3. **The non-conforming sign shall be brought into conformance with the sign ordinance within five years of the application date.** [*CITY REQUESTED MOD*]

C. **Maintenance and changes.** Sign copy and face changes, nonstructural modifications, and nonstructural maintenance (e.g., painting, rust removal) are allowed without a sign permit up to a maximum of 25 percent of the existing total area of the sign. Face changes not including copy, and any nonstructural modifications exceeding 25 percent of the existing total area of the sign, and any structural changes shall comply with all applicable standards of this Chapter.

18.38.100 - Violations, Enforcement, Abatement

A. **Signs on vacated buildings.** Signs on premises that have been vacated for 60 days or more, and signs on multi-tenant buildings advertising a business that has been vacated for 60 days or more shall be immediately removed by the owner after the expiration of that period. The Director may issue a notice to remove signs and sign standards after the expiration of the 60 day period. The notice to remove shall specify a 15-day period during which the signs shall be removed. If the owner does not remove the signs during the 15-day period, the Director may have the sign removed at cost borne by the City. The City will bill the property owner for all costs related to removal. Costs not paid to the city shall be recovered as described in this Section.

B. **Violation, abatement, penalties.** Any sign within the city that fails to comply with the requirements of this Chapter, other applicable State statute or City ordinance, or for which a permit has not been obtained in compliance with this Chapter, shall be subject to abatement through civil legal proceedings or as an infraction punishable by a fine as set forth in Chapter 18.98 (Enforcement and Penalties).

18.38.110 - Judicial Review

Any permit issued or denied in compliance with this Chapter shall be subject to expedited judicial review to the extent provided by the time limits identified in Code of Civil Procedure Section 1094.6 et seq.

18.38.120 - Partial Invalidation

This Chapter and the its various parts are hereby declared to be severable. Should any Section of this Chapter be declared by a court to be unconstitutional or invalid, that decision shall not affect the validity of the Chapter as a whole, or any portion of the Chapter, other than the Section declared to be unconstitutional or invalid.

Article 4
Standards for Specific Land Uses

ARTICLE 4

Standards for Specific Land Uses

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CHAPTER 18.40 - ADULT ORIENTED BUSINESS REGULATIONS

[NOTE: Chapter 18.40 is not part of the certified LCP and shall not govern the review and approval of Coastal Development Permits.]

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18.40.010 - Intent and Purpose

A. **Intent.** It is the intent of this Chapter to provide special design guidelines, standards, and development regulations to regulate the time, place, and manner of the operation of Adult-Oriented Businesses in order to minimize the negative secondary effects associated with these businesses including, but not limited to, increased crime, decreased property values, and the deterioration of neighborhoods which can be brought about by the concentration of Adult-Oriented Businesses in close proximity to each other or proximity to other incompatible uses, including religious facilities, parks, playgrounds, schools, and residentially zoned districts or uses. The Council finds that it has been demonstrated in various communities that the concentration of Adult-Oriented Businesses causes an increase in the number of transients in the area, and an increase in crime, and in addition to the effects described above can cause other businesses and residents to move elsewhere.

B. **Purpose.** It is, therefore, the purpose of this Chapter to:

1. Establish reasonable and uniform regulations to prevent the concentration of Adult-Oriented Businesses or their close proximity to incompatible uses, while allowing the location of Adult-Oriented Businesses in certain areas; and

2. Regulate Adult-Oriented Businesses in order to promote the health, safety, and general welfare of the citizens of the City.

C. **Restriction on content and access not intended.** The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented

materials. Similarly, it is not the intent nor effect of this Chapter to restrict or deny access by adults to adult-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material.

18.40.020 - Definitions

Definitions of the technical terms and phrases used in this Chapter are under "Adult Oriented Business" in Article 10 Glossary).

18.40.030 - Prohibited Areas and Minimum Proximity Requirements

A. **IH (Heavy Industrial) and IL (Light Industrial).** Subject to the limitations set forth in this Chapter, Adult-Oriented Businesses may be established in the IH and IL zoning districts.

B. **Specified distance separation requirements.** Notwithstanding the above, no Adult-Oriented Business shall be established or located within certain distances of certain specified land uses or zoning districts as set forth below. No Adult-Oriented Business shall be established or located:

1. Within a 300-foot radius from any existing residential zoning district or use. The distance between a proposed Adult-Oriented Business use and a residential zoning district or use shall be measured from the nearest exterior walls of the facilities housing the Adult-Oriented Business use or proposed Adult-Oriented Business use to the nearest property line included within a residential zoning district or property in current residential use, along a straight line extended between the two points; or

2. Within 500 feet of any other Adult-Oriented Business as defined in this Chapter which is located either inside or outside the jurisdiction of the City of Fort Bragg. The distance between the two Adult-Oriented Business uses shall be measured between the nearest exterior walls of the facilities housing the Adult-Oriented Business use and proposed Adult-Oriented Business use along a straight line extended between the two uses; or

3. Within 500 feet from any existing park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF). The distance between a proposed Adult-Oriented Business use and park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF), shall be measured from the nearest exterior wall of the facility housing the Adult-Oriented Business use or proposed Adult-Oriented Business use to the nearest property line where the park, playground, religious facility, or school use is located, or property zoned Open Space (OS) or Public Facilities (PF) along a straight line extended between the two points.

C. **Separation requirements also apply to specified uses or districts outside of the City.** The above distance limitations shall also apply to residential districts or uses and parks, playgrounds, schools, and church uses or property so designated in the General Plan Land Use Element of an adjacent jurisdiction.

18.40.040 - Adult-Oriented Business Permit Required

A. **Adult-Oriented Business Permit and Business License required.** It shall be unlawful for any person to engage in, conduct, establish, carry on, or to permit to be engaged in, conducted, established, or carried on, in or upon any premises in the City of Fort Bragg, the operation of an Adult-Oriented Business unless the person first obtains and continues to maintain in full force and effect both an Adult-Oriented Business Permit and a Business License from the City of Fort Bragg.

B. **Not allowed by right.** No Adult-Oriented Business may be established within the City of Fort Bragg by right. All persons wishing to establish an Adult-Oriented Business within the City shall first apply for and receive an Adult-Oriented Business Permit in compliance with this Chapter.

C. **Applicant to supply sufficient evidence.** It is the burden of the applicant for an Adult-Oriented Business Permit to supply sufficient evidence to justify the grant of an Adult-Oriented Business Permit.

18.40.050 - Application Requirements

A. **Application submittal.** Any person desiring to operate or establish an Adult-Oriented Business within the City of Fort Bragg shall file with the Department an Adult-Oriented Business Permit application on a standard application form supplied by the Department.

B. **Required information.** All applications shall include the following information:

1. If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least 18 years of age.

2. If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names and current addresses of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.

3. If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names, addresses, and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process.

4. The notarized signature of the property owner and proof of ownership.

5. A deposit or fee as set forth by the City's Fee Schedule.

6. Signed statement by the applicant verifying that applicant intends to and will comply with all of the adult-oriented business development standards of this Chapter.

7. A description of the Adult-Oriented Business for which the permit is requested and the proposed address where the Adult-Oriented Business will operate, plus the names and addresses of all the owners and lessors of the Adult-Oriented Business site.

8. The address to which notice of action on the application is to be mailed.

9. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the Adult-Oriented Business. The sketch or diagram need not be professionally prepared, but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

10. A straight-line drawing depicting the building and the portion thereof to be occupied by the Adult-Oriented Business, and:

    a. The property line of any residential zoning district or use within 300 hundred feet of the nearest exterior wall of the Adult-Oriented Business;

    b. The property line of any other Adult-Oriented Business within 500 feet of the nearest exterior wall of the Adult-Oriented Business for which a Business Permit is requested; and

    c. The property lines of any church, school, park, or playground within 500 feet of the nearest exterior wall of the Adult-Oriented Business.

11. A diagram of the off-street parking areas and premises entries of the Adult-Oriented Business showing the location of the lighting system required by this Chapter.

C. **Signature of applicant required.** If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a 10 percent or greater interest in the business entity shall sign the application.

D. **Fictitious name, if applicable.** If the applicant intends to operate the Adult-Oriented Business under a name other than that of the applicant, the applicant shall file the fictitious name of the Adult-Oriented Business and show proof of registration of the fictitious name.

E. **CEQA compliance.** All applicants for an Adult-Oriented Business Permit shall also fill out the City's environmental review package\initial study checklist for purposes of complying with the California Environmental Quality Act (CEQA).

F. **Other permits or licenses.** The fact that an applicant possesses other types of State or City permits or licenses does not exempt the applicant from the requirement of obtaining an Adult-Oriented Business Permit.

18.40.060 - Investigation and Action on Application

The processing, review, and decision by the City on an Adult-Oriented Business Permit shall be same as required for a Use Permit by Chapter 18.70 (Permit Application Filing and Processing), Section 18.71.060 (Use Permit and Minor Use Permit), and Chapters 18.72 (Environmental Impact Assessment and Mitigation Monitoring), and 18.76 (Permit Implementation, Time Limits, and Extensions), except as provided by Section 18.40.080 (Permit Expiration). Decisions of the Commission on an Adult-Oriented Business Permit may be appealed to the Council in compliance with Chapter 18.92 (Appeals).

18.40.070 - Judicial Review of Decision to Grant, Deny, or Revoke

A. **Court challenge.** The time for court challenge to a decision by the Council to grant, deny, or revoke, an Adult-Oriented Business Permit is governed by California Code of Civil Procedure Section 1094.6.

B. **Transmittal of decision to applicant.** Notice of the Council's decision and its findings shall be mailed to the applicant and shall include citation to California Code of Civil Procedure Section 1094.6.

C. **Prompt judicial review.** The Petitioner may seek prompt judicial review of the Council's action in compliance with California Code of Civil Procedure Section 1094.8.

18.40.080 - Permit Expiration

Any Adult-Oriented Business Permit approved in compliance with this Chapter shall become null and void unless the proposed use is established within 180 days of the date from the approval. As to facilities that are a reuse of existing facilities, the Adult-Oriented Business Permit shall become null and void unless the proposed use is established within 180 days from the date of approval, unless before the expiration date the permittee demonstrates to the satisfaction of the Commission that the applicant has a good faith intent to presently commence the proposed use. The extensions shall not exceed a total of two 180-day extensions.

18.40.100 - Findings

A. **Required findings.** The Commission or Council shall approve or conditionally approve an application for an Adult-Oriented Business Permit where the information submitted by the applicant or other relevant evidence substantiates all of the following findings:

1. The applicant is over the age of 18 years;

2. The required application fee has been paid;

3. The proposed use complies with the development and design requirements of the underlying zoning district in which it is located and with the applicable development standards of this Chapter;

4. The proposed site is not located within a 300-foot radius from any existing residential zoning district or use. The distance between a proposed Adult-Oriented Business use and a residential zoning district or use shall be measured from the nearest exterior wall of the facility housing the Adult-Oriented Business use or proposed Adult-Oriented Business use to the nearest property line included within a residential zoning district or property in current residential use, along a straight line extended between the two points;

5. That the proposed site is not located within 500 feet of any other Adult-Oriented Business as defined in this Chapter which is located either inside or outside the jurisdiction of the City of Fort Bragg. The distance between the two Adult-Oriented Business uses shall be measured between the nearest exterior walls of the facilities housing the Adult-Oriented Business use and proposed Adult-Oriented Business use along a straight line extended between the two uses;

6. The proposed site is not located within 500 feet from any existing park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF). The distance between a proposed Adult-Oriented Business use and park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF), shall be measured from the nearest exterior walls of the facilities housing the Adult-Oriented Business use or proposed Adult-Oriented Business use to the nearest property line where the park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF) is located, along a straight line extended between the two points;

7. The proposed site is not located within 300 feet of a residential zoning district or use or within 500 feet of a park, playground, religious facility, or school use located in or on property so designated in the General Plan Land Use Element of an adjacent jurisdiction; and

8. Neither the applicant, if an individual, or any of the officers or general partners, if a corporation or partnership, have been found guilty or pleaded *nolo contendere* within the past four years of a misdemeanor or a felony classified by the State as a sex or sex-related offense.

B. **Conditions imposed on the permit.** Any conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zoning district in which the property is located.

18.40.110 - Registration of New Employees

A. **Employee registration required.** As a further condition of approval of every Adult-Oriented Business Permit issued in compliance with this Chapter, every owner or operator of an Adult-Oriented Business shall register every employee with the Police Department within five business days of the commencement of the employee's period of employment at the Adult-Oriented Business.

B. **Color photographs and other information required.** Each Employee shall be required to provide two recent color passport-quality photographs and, at the discretion of the Police Chief, shall allow himself or herself to be fingerprinted by the Police Department for purposes of identification. In addition, each new employee shall provide the following information in a form provided by the Police Department:

1. Name, current resident address, and telephone number;

2. Date of birth;

3. Social Security number;

4. Height, weight, color of eyes and hair; and

5. Stage name , if applicable, and other aliases used within the previous two years.

C. **Current employee register required.** Each owner or operator of an Adult-Oriented Business shall maintain a current register of the names of all employees currently employed by the Adult-Oriented Business, and shall disclose the registration for inspection by any Police Officer for the purposes of determining compliance with the requirements of this Section.

D. **Failure to comply.** Failure to register each new employee within five days of the commencement of employment, or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the Adult-Oriented Business Permit and may be considered grounds for suspension or revocation of the permit.

18.40.120 - Adult-Oriented Business Development Standards

A. **Unlawful hours of operation.** It shall be unlawful for any operator or employee of an Adult-Oriented Business to allow the adult business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 10:00 p.m. and 10:00 a.m. of the following day.

B. **Observation of activities or materials outside prohibited.** No Adult-Oriented Business shall be operated in any manner that permits the observation of any material or activities depicting, describing, or relating to specified sexual activities or specified anatomical areas from any public way or from any location outside the building or area of the establishment. This provision shall apply to any display, decoration, sign, show window, or other opening. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.

C. **Outdoor lighting level required.** All off-street parking areas and other exterior areas of the Adult-Oriented Business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot candle of light evenly distributed at ground level. The required lighting level is established in order to provide sufficient illumination of the parking areas, walkways, and outdoor areas serving the Adult-Oriented Business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

D. **All areas shall be readily accessible.** The operator of an Adult-Oriented Business shall not permit any doors on the premises to be locked during business hours and, in addition, the operator shall be responsible to see that any room

or area on the premises shall be readily accessible at all times and shall be open to view in its entirety for inspection by any law enforcement official.

E. **Posting of California Penal Code Section 314 required.** The Adult Oriented Business shall post in plain view inside the front portion of the business, a sign, in two inch print which shall reference California Penal Code Section 314 which shall read as follows:

1. Every person who willfully and lewdly either: (1) exposes his person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or (2) procures, counsels, or assists any person so as to expose himself or take part in any model artist exhibition, or to make any other exhibition of himself to public view or the view of any number of persons, which is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts, is guilty of a misdemeanor.

2. Upon the second and each subsequent conviction under Subparagraph 1., above, or upon a first conviction under Subparagraph 1., above after a previous conviction under [California Penal Code] Section 288, every person so convicted is guilty of a felony, and is punishable by imprisonment in State prison. "California Penal Code Section 314."

F. **Open to view by management.** All indoor areas of the Adult-Oriented Business within which patrons are permitted, except rest rooms and customer changing rooms, if any, shall be open to view by the management at all times.

G. **Additional "Adult Arcade" provisions.** Any adult-oriented business which is also an "Adult Arcade", shall comply with the following additional provisions:

1. The interior of the premises shall be configured in so that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms and customer changing rooms. Restrooms and customer changing rooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured so that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this Subparagraph shall be direct line of sight from the manager's station.

2. The view area specified in Subparagraph 1., above shall remain unobstructed by any doors, walls, merchandise, display racks, or other materials at all times. No patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

3. No viewing room or changing room may be occupied by more than one person at any one time.

4. The walls or partitions between viewing rooms or booths, changing rooms, restrooms, and stalls or spaces contained therein shall be maintained in good repair at all times, with no holes between any two of the rooms that would allow viewing from one booth or room into another or that would allow physical contact of any kind between the occupants of any two of the booths or rooms.

5. Customers, patrons, or visitors who are not actively engaged in shopping for or reviewing the products available on display for purchaser viewing, shall not be allowed to stand idly by in the vicinity of any video booths, or to remain in the common area of the business, other than the restrooms. Signs prohibiting loitering shall be posted in prominent places in and near the video booths.

6. The floors, seats, walls, and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, urine, semen, or saliva in any of the booths shall be evidence of improper maintenance and inadequate sanitary controls; instances of these conditions may justify suspension or revocation of the Adult-Oriented Business permit.

H. **Indoor lighting level required.** All interior areas of the Adult-Oriented Business shall be illuminated at a minimum of the following foot-candles, minimally maintained and evenly distributed at ground level:

Location	Minimum Illumination Level (foot-candles)
Adult arcades	10
Bookstores and other retail establishments	20
Modeling studios	20
Motels/Hotels	20 in public areas
Theaters and cabarets	5, except that a minimum of 1.25 shall be required during performances

I. **Separate restrooms required.** The Adult-Oriented Business shall provide and maintain separate restrooms for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using a restroom for females, and female patrons and employees shall be prohibited from using a restroom for males, except to carry out duties of repair, maintenance, and cleaning of the rest room facilities. The rest rooms shall be free from any Adult-Oriented Material. Rest rooms shall not contain television monitors or other motion picture or video projection, recording, or reproduction equipment. The foregoing provisions of this Subparagraph shall not apply to an Adult-Oriented Business that deals exclusively with sale or rental of sexually oriented material or merchandise that is not used or consumed on the premises and which does not provide rest room facilities to its patrons or the general public.

J. **Additional requirements for live entertainment.** The following additional requirements shall pertain to Adult-Oriented Businesses providing live entertainment depicting specified anatomical areas or involving specified sexual activities, except for businesses regulated by the Alcoholic Beverage Control Commission:

1. No employee, owner, operator, responsible managing employee, manager, or permittee of an Adult-Oriented Businesses providing live entertainment shall allow any person below the age of 18 years upon the premises or within the confines of the business if no alcoholic beverage is served, or under the age of 21 if alcoholic beverages are served.

2. No entertainer shall dance with or otherwise be within four feet of a patron while performing for compensation or while on the Adult-Oriented Businesses premises. This four-foot separation shall be marked by a railing or other physical barrier designed to obstruct any contact between the entertainer and the patron(s).

3. No owner, operator, responsible managing employee, manager, or permittee shall permit or allow at licensed premises any patron to approach within four feet of an entertainer, or permit or allow an entertainer to approach within four feet of a patron.

4. All employees, other than entertainers while performing, shall, at a minimum while on or about the licensed premises, wear an opaque covering which covers their specified anatomical areas.

5. The Adult-Oriented Business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.

6. The Adult-Oriented Business shall provide an entrance/exit for entertainers which is separate from the entrance/exit used by patrons.

7. The Adult-Oriented Business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If a separate access is not physically feasible, the Adult-Oriented Business shall provide a minimum three-foot wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence, or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.

8. No entertainer, either before, during, or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during, or after performances by the entertainer. This Subparagraph shall only apply to physical contact on the premises of the Adult-Oriented Business.

9. No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.

K. **Security guards required.** Adult-Oriented Businesses shall employ security guards in order to maintain the public peace and safety, consistent with the following standards:

1. Adult-Oriented Businesses featuring live entertainment shall provide at least one security guard at all times while the business is open. If the occupancy limit of the premises is greater than 35 persons, an additional security guard shall be on duty.

2. All Adult-Oriented Businesses shall have a responsible person who shall be at least 18 years of age and shall be on the premises to act as manager at all times during which the business is open. The individual designated as the on-site manager shall be registered with the Police Chief by the owner to receive all complaints and be responsible for all violations taking place on the premises.

3. All Adult-Oriented Businesses shall provide a security system that visually records and monitors the exterior premises of the property including all parking lot areas, or in the alternative, uniformed security guards to patrol and monitor the exterior premises of the property, including the parking lot areas during all business hours. A sign indicating compliance with this provision shall be posted on the premises. The sign shall not exceed two by three feet and shall at a minimum be one foot by one and a half feet

4. Security guards shall be uniformed in a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of State law. No security guard required in compliance with this Subparagraph shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.

L. **X-rated movies or videos.** X-rated movies or videos shall be restricted to persons over 18 years of age. If an establishment that is not otherwise prohibited from providing access to persons under 18 years of age sells, rents, or displays videos or other motion picture media that have been rated "X" or rated "NC-17" by the motion picture rating industry ("MPAA"), or which have not been submitted to the MPAA for a rating, and which consist of images which are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas, the videos shall be located in a specific section of the establishment where persons under the age of 18 shall be prohibited. All access to sexually oriented material or merchandise shall be restricted to persons over 18 years of age.

M. **Disposal in locked garbage receptacles only.** Any and all sexually oriented materials or sexually oriented merchandise discarded by an Adult-Oriented Business shall be fully contained within a locked garbage receptacle at all times so that minors are not exposed to sexually oriented materials or sexually oriented merchandise.

The foregoing applicable requirements of this Section shall be deemed conditions of Adult-Oriented Business permit approvals, and failure to comply with every requirement shall be grounds for revocation of the permit issued in compliance with these regulations.

18.40.130 - Display of Permit

Each Adult-Oriented Business shall display at all times during business hours the Adult-Oriented Business permit issued in compliance with the provisions of this Chapter for an Adult-Oriented Business in a conspicuous place so that the same may be readily seen by all persons entering the Adult-Oriented Business.

18.40.140 - Persons Under 18 Prohibited

It shall be unlawful for any permittee, operator, or other person in charge of any Adult-Oriented Business to employ, or provide any service for which it requires an Adult-Oriented Business permit, to any person who is not at least 18 years of age.

18.40.150 - Transfer of Adult-Oriented Business Regulatory Permits

A. **Only at approved address.** A permittee shall not operate an Adult-Oriented Business under the authority of an Adult-Oriented Business permit at any place other than the address of the Adult-Oriented Business stated in the application for the Adult-Oriented Permit.

B. **No transfer without permit amendment.** A permittee shall not transfer ownership or control of an Adult-Oriented Business or transfer an Adult-Oriented Business permit to another person unless and until the transferee obtains an amendment to the permit from the Commission stating that the transferee is now the permittee. The amendment may be obtained only if the transferee files an application with the Commission in compliance with Sections 18.40.040 (Adult-Oriented Business Permit Required) and 18.40.050 (Application Requirements), above, accompanies the application with a transfer fee as set forth in the City's Fee Schedule, and the Commission determines in compliance with Sections 18.40.060-100 that the transferee would be entitled to the issuance of an original Adult-Oriented Business permit. The transfer fee shall be paid in lieu of the filing fee required by Section 18.40.050.

C. **No transfer when subject to suspension or revocation.** No Adult-Oriented Business permit may be transferred when the permittee has been notified that the Adult-Oriented Business Permit has been or may be suspended or revoked.

D. **No transfer in violation of this Section.** Any attempt to transfer an Adult-Oriented Business permit either directly or indirectly in violation of this Section is hereby declared void, and the Adult-Oriented Business permit shall be deemed revoked.

18.40.160 - Permit Revocation

A. **Findings required for revocation.** Any Adult-Oriented Business permit issued in compliance with the provisions of this Chapter may be revoked by the City on the basis of any of the following:

1. The business or activity has been conducted in a manner which violates one or more of the conditions imposed upon the issuance of the permit or which fails to conform to the plans and procedures described in the application, or which violates the occupant load limits for the building in which the use is located set by the Fire Marshall;

2. The permittee has misrepresented a material fact in the application for permit or in any report required to be filed with the City or has not answered each question in the application truthfully;

3. The permittee has failed to obtain or maintain all required City, County, and State licenses and permits;

4. The permit is being used to conduct an activity different from that for which it was issued;

5. The building or structure in which the Adult-Oriented Business is conducted is hazardous to the health or safety of the employees or patrons of the business or of the general public under the standards set forth in the Uniform Building, Uniform Plumbing, or Uniform Fire Code;

6. The permitted business creates sound levels which violate the Noise Ordinance of the City;

7. The permittee, if an individual, or any of the officers or general partners, if a corporation or partnership is found guilty or pleaded *nolo contendere* to a misdemeanor or felony classified by the State as a sex or sex-related offense during the period of the Adult-Oriented Business's operation;

8. The permittee, employee, agent, partner, director, stockholder, or manager of an Adult-Oriented Business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the Adult-Oriented Business:

   a. Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation;

   b. Use of the Adult-Oriented Business site as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur;

   c. Any conduct constituting a criminal offence which requires registration under Section 290 of the California Penal Code;

   d. The occurrence of acts of lewdness, assignation, or prostitution including any conduct constituting violations of California Penal Code Sections 315, 316, 318, or 647(b);

   e. Any act constituting a violation of provisions of the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including, but not limited to, Sections 311 through 313.4; or

   f. Any conduct prohibited by this Chapter.

9. Failure to abide by any action previously imposed by an appropriate City official; and

10. The use for which the approval was granted has ceased to exist or has been suspended for 180 days or more.

B. **Notice and public hearing required.** Written notice of hearing on the proposed permit revocation, together with written notification of the specific grounds of complaint against the permittee shall be personally delivered or sent by certified mail to the permittee at least 10 days before the hearing.

1. The Commission shall hold a public hearing on the proposed revocation of the permit.

2. Notice of the public hearing shall be given in compliance with California Government Code Section 65091, as the same may be amended from time to time.

3. In reaching a decision on the proposed revocation, the Commission shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

C. **Commission action.** The Commission shall revoke, not revoke, or not revoke but add additional conditions to, the permittee's Adult-Oriented Business permit. Any additional conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zoning district in which the property is located.

D. **Transmittal of Commission decision.** The Commission's decision shall be in writing, and shall be hand delivered or mailed to the applicant and mailed to all property owners within 300 feet of the use.

E. **Decision within 30 days.** The Commission shall make its final decision within 30 days of the public hearing.

F. **Appeal of Commission decision.** Any interested person may appeal the decision of the Commission to the Council in writing within 10 days after the Commission's written decision. In addition, within 10 days after the Commission's written decision, any member of the Council shall have the authority to direct that the Council review the decision of the Commission on the grounds that the individual council member believes that the matter should be decided by the Council.

G. **De novo public hearing.** Consideration of an appeal of the Commission's decision shall be at a de novo public hearing which shall be noticed in the same manner as the public hearing of the Commission and shall occur within 30 days of the filing of the appeal or initiation of review by the Council. In reaching its decision, the Council shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

H **Council action on appeal.** The Council action on the appeal of the Commission's decision shall be by a majority vote of the quorum, and upon the conclusion of the public hearing, the Council shall revoke, not revoke, or not revoke but add additional conditions to, the permittee's Adult-Oriented Business permit. Any additional conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zoning district in which the property is located. The Council's decision shall be final and conclusive.

I. **No new permit within 12 months after revocation.** In the event a permit is revoked pursuant to this Chapter, another adult use development permit to operate an adult business shall not be granted to the permittee within 12 months after the date of the revocation.

18.40.170 - Violations

Any person who violates any section of this Chapter shall be guilty of a misdemeanor and is subject to a fine and/or imprisonment in compliance with the limits set forth in California Government Code section 36901, as it may be amended from time to time, or any other legal remedy available to the City.

18.40.180 - Applicability to Other Regulations

The provisions of this Chapter are not intended to provide exclusive regulation of the Adult-Oriented Business uses. These uses shall comply with any and all applicable regulations imposed in other articles of this Development Code, other City ordinances, and State and Federal law.

18.40.190 - Conduct Constituting a Public Nuisance

The conduct of any business within the City in violation of any of the terms of this Chapter is hereby found and declared to be a public nuisance, and the City Attorney or the District Attorney may, in addition or in lieu of prosecuting a criminal action hereunder, commence an action or proceeding for the abatement, removal, and enjoinment thereof, in the manner provided by law; and shall take other steps and shall apply to other courts as may have jurisdiction to grant relief that will abate or remove the Adult-Oriented Business and restrain and enjoin any person from conducting, operating, or maintaining an Adult-Oriented Business contrary to the provisions of this Chapter.

18.40.200 - Inspections

An applicant or permittee shall permit representatives of the Police Department, Health Department, Planning Department, or other City Departments or Agencies to inspect the premises of an Adult-Oriented Business for the purpose of ensuring compliance with the law and the development standards applicable to Adult-Oriented Businesses, at any time it is occupied or opened for business. A person who operates an Adult-Oriented Business or his or her agent or employee is in violation of the provisions of this Section if he/she refuses to permit the lawful inspection of the premises at any time it is occupied or open for business.

CHAPTER 18.42 - STANDARDS FOR SPECIFIC LAND USES

Sections:

18.42.010 - Purpose and Applicability
18.42.020 - Accessory Retail and Service Uses
18.42.030 - Agricultural Accessory Structures
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18.42.160 - Residential Accessory Uses and Structures
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18.42.010 - Purpose and Applicability

A. **Purpose.** This Chapter provides site planning, development, and/or operating standards for certain land uses that are allowed by Article 2 (Zoning Districts and Allowable Land Uses) within individual or multiple zoning districts, and for activities that require special standards to ensure their compatibility with site features, and existing uses and structures in the site vicinity.

B. **Applicability.** The land uses and activities covered by this Chapter shall comply with the provisions of the Sections applicable to the specific use, in addition to all other applicable provisions of this Development Code.

1. **Where allowed.** The uses that are subject to the standards in this Chapter shall be located only where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

2. **Planning permit requirements.** The uses that are subject to the standards in this Chapter are allowed only when authorized by the planning permit required by Article 2, except where a planning permit requirement is established by this Chapter for a specific use.

3. **Development standards.** The standards for specific uses in this Chapter supplement and are required in addition to those in Articles 2 (Zoning Districts and Allowable Land Uses), 3 (Site Planning and Project Design Standards), 5 (Resource Management), and Article 6 (Site Development Regulations).

   a. The applicability of the standards in this Chapter to the specific land uses listed is determined by Chapter 18.20 (Development and Land Use Approval Requirements).

b. In the event of any conflict between the requirements of this Chapter and those of Articles 2 or 3, the requirements of this Chapter shall control.

18.42.020 - Accessory Retail and Service Uses

This Section provides standards for specific retail sales and service uses, including restaurants, pharmacies, and the sale of retail merchandise, that are accessory to a primary commercial, industrial, or institutional use, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. **General standard.** There shall be no external evidence of any commercial activity other than the primary use of the site (e.g., no signs, windows with merchandise visible from adjoining streets, etc.), nor access to any space used for the accessory retail or service use other than from within the primary structure.

B. **IL (Light Industrial) zoning district.** Accessory retail services uses within the IL zoning district shall be limited to businesses that the review authority determines will manufacture, refine, repair, finish, or store their products or services on-site, will provide adequate parking and street access, and not generate significant customer traffic.

C. **Review and approval requirements.** Accessory retail and service uses may require Design Review in compliance with Section 18.71.050. Accessory Retail and service uses require a Minor Use Permit in compliance with Table 2-10 in Section 18.24.030. In order to approve an accessory retail or service use, the review authority shall first find that there will be no adverse effects on adjacent existing or potential residential uses from excessive traffic, noise or other effects of the accessory use.

18.42.030 - Agricultural Accessory Structures

The following standards apply to agricultural accessory structures, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. **Timing of installation.** An agricultural accessory structure shall only be constructed concurrent with or after the construction of an approved primary structure on the same site, unless:

1. The site is one acre or larger, and the proposed structure is a barn, or other structure used for confining animals and/or housing farm equipment or supplies, or is a noncommercial greenhouse; or

2. Construction in advance of a primary structure is authorized through Minor Use Permit approval.

B. **Setback requirements.** An agricultural accessory structure shall comply with the setback requirements of the applicable zoning district, except where Section 18.42.040 (Animal Keeping) establishes a greater setback requirement for an animal keeping structure.

18.42.040 - Animal Keeping

Animal keeping within the City shall comply with requirements of this Section, and shall occur only where allowed by Article 2 (Zoning Districts and Allowable Land Uses), and this Section. The provisions of this Section are intended to assist in ensuring that animal keeping does not create adverse impacts on adjacent properties by reason of bright lights, dust, insect infestations, noise, odor, or visual blight.

A. **Pre-existing uses.** Any legally established animal keeping use that became nonconforming upon adoption of this Section shall be permitted to continue subject to Chapter 18.90 (Nonconforming Uses, Structures, and Parcels).

B. **Allowable animal keeping activities and permit requirements.**

1. **Activities and permit requirements.** Animal keeping, including related animal husbandry activities (breeding, judging, etc.) is allowed only in compliance with the limitations on use and permit requirements in Table 4-1, and the animal keeping standards in Subsection C. The keeping of imported animals may require approval by the U.S. Department of Agriculture Fish and Wildlife Service, U.S. Department of Public Health, California Department of Fish and Game, and/or the California Department of Food and Agriculture, and the Mendocino County Agricultural Commissioner, in addition to any City approval required by this Section.

Table 4-1 - ALLOWABLE ANIMAL-KEEPING AND PERMIT REQUIREMENTS

Type of Animal	Permit Requirement by Zoning District		
	RR	RS	Other Zones Allowing Residential Use
Aviary	P	P	C
Beekeeping	P	P	C
Fowl and poultry, except roosters	P	P	C
Hogs and swine	P	C	C
Horses and cows	P	MUP	C
Household pets	P	P	P
Roosters	MUP	C	C
Other large animals (defined in Table 4-2)	P	MUP	C
Other small animals (defined in Table 4-2)	P	P	P

Key to permit requirements:

P	Permitted animal keeping, no City approval required for the animal keeping activity, provided that it complies with the standards in Subsections C. through F.
MUP	Minor Use Permit approval required in compliance with Section 18.71.060
C	Type of animal or activity not allowed.

2. **Minor Use Permit review.** Where Table 4-1 requires a Minor Use Permit for keeping a specified animal type, the purpose of the discretionary review shall include evaluation of how the proposed animals will be housed and/or confined, and whether the location, size, and design of the area on the site for animal keeping will be

adequate to allow compliance with the other standards of this Section without unreasonable effort on the part of the animal manager. In approving a Minor Use Permit in compliance with this Section, the review authority may limit the maximum number of animals allowed on the site as appropriate to the characteristics of the site, the surrounding land uses, and the species of animals proposed.

C. **Animal keeping standards.** All animal keeping shall comply with the standards in Table 4-2, where allowed by Subsection B., Table 4-1, except that more animals may be allowed by Minor Use Permit.

Table 4-2 - ANIMAL-KEEPING STANDARDS

Type of Animal or Facility	Maximum Number of Animals per Site (1)	Minimum Lot Area (2)	Minimum Setbacks (3)	
			From Side/Rear Property Lines	From Streets and Dwellings
Aviary for birds other than fowl and poultry	20 per acre	2 acre	25 ft	50 ft
Dogs and cats	5 animals total on a site less than 1 acre; 5 of each species on a site of 1 acre or more	None required	None required	None required
Fowl and poultry	12 per acre	2 acre	25 ft	50 ft
Hogs and swine	1 per acre	2 acres	50 ft	100 feet
Horses and cows	2 per acre	1 acre	25 ft	50 ft
Other small animals - Including chinchillas, rabbits, non-poisonous reptiles, rodents, and other non-poisonous small animals.	6 animals total on a site less than 1 acre; 4 of each species on a site of 1 acre or more, where allowed by Table 4-1.	None for 6 or fewer animals; 1 acre for 7 or more animals	None on a site of less than 1 acre; 10 ft on a site of 1 acre or more.	None on a site of less than 1 acre; 25 ft on a site of 1 acre or more.
Other large animals - Emus, goats, llamas, miniature horses and donkeys, ostriches, pot belly pigs, sheep, and similar sized animals.	4 per acre	2 acre	25 ft	50 feet for accessory structure, none for pasture

Notes:

(1) Offspring allowed in addition to maximum number until market-ready.

(2) Minimum lot area required for the keeping of animals.

(3) Minimum setbacks from all property lines for barns, shelters, pens, coops, cages, and other areas and structures where animals are kept in concentrated confinement; but not including areas continuously maintained as pasture. Animals shall not be kept in any required front yard setback except in pasture areas.

D. **Maintenance and operational standards.** All animal keeping shall comply with all of the following maintenance and operational standards.

1. **Odor and vector control.** All animal enclosures, including but not limited to pens, coops, cages and feed areas shall be maintained free from litter, garbage and the accumulation of manure, so as to discourage the proliferation of flies, other disease vectors and offensive odors. Manure shall also not be allowed to accumulate within setback areas. Each site shall be maintained in a neat and sanitary manner.

2. **Containment.** All animals shall be effectively contained on the site, and shall not be allowed to run free on any parcel in a separate ownership or in a public right-of-way.

3. **Waterway protection.** The keeping of horses or cattle within 50 feet of any waterway shall first require Director approval of a good housekeeping plan to protect the waterway from the polluting effects of runoff from the animal keeping area. The plan shall provide for regular manure removal, the maintenance of pasture vegetation to minimize the exposure and potential erosion of bare soil, site grading to direct runoff to detention and settling areas rather than the waterway, and/or other measures approved by the Director.

4. **Erosion and sedimentation control.** In no case shall an animal keeping operation be managed or maintained so as to produce sedimentation on any public road, adjoining property, or in any drainage channel or other waterway. In the event sedimentation occurs, the keeping of animals outdoors on the site shall be deemed a nuisance and may be subject to abatement.

5. **Noise control.** Animal keeping shall comply with the Municipal Code Chapter 9.44.

E. **Animal husbandry project exception.** The keeping or raising of a calf, horse, goat, sheep, hog, chickens, rabbits, birds or other animals as a 4-H or Future Farmers of America (FFA) project shall comply with the following requirements.

1. **Minimum site area.** A minimum of one acre of site area shall be required for the keeping of horses, cows, or other large animals.

2. **Setback requirements.** The project animals shall be confined in a pen or fenced area that is located no closer than 25 feet to any dwelling other than on the project site; except that a hog or swine shall not be located closer than 100 feet from any dwelling other than on the project site.

3. **Maximum number of animals.** The number of animals shall comply with the limitations in Subsection C.

4. **Maintenance.** The animal keeping shall comply with all standards in Subsection D.

F. **Kennels and animal boarding.** Each kennel and other small animal boarding facility shall comply with the following standards.

1. **Minimum site area.** An animal boarding facility may be approved only on a parcel of 2 acres or larger.

2. **Enclosure within building.** All animal boarding (sleeping and night-time confinement) shall occur within an entirely enclosed building.

3. **Noise control.** The building used for animal boarding shall be insulated, or otherwise constructed and maintained so that no noise from animals within the building is audible to an average person at the property line of the site.

4. **Management.** A manager of the facility shall be present on the site at all times.

18.42.046 - Aquaculture Development or Facilities

A. **Conformance to LCP.** **All aquaculture development or facilities shall require a coastal development permit unless it is except development exempt from coastal development permit requirements pursuant to Section 30610 of the Coastal Act and Section 18.71.040 of this Development Code. All aquaculture development shall be consistent with all policies and standards of the certified LCP, including but not limited to policies regarding the protection of public access, water and marine resources, environmentally sensitive habitat areas, hazards, water quality, archaeological resources, and visual resources.** ~~In addition to satisfying all other policies and standards of the certified LCP, all aquaculture development or facilities shall be governed by the Aquaculture Policies contained in LCP Chapter 10, Section C, and any relevant Special Review Area Procedures contained in Chapter 17, Section E~~.

B. **Application requirements**. An application for aquaculture development or aquaculture facilities shall comply with the requirements of Chapter 18.70 (Permit Application Filing and Processing), **and the requirements of Section 18/71.040 (Coastal Development Permit). In addition to the application information required by Chapter 18.70 and Section 18.71.040, an application for aquaculture development** ~~and~~ shall contain the following specific information to enable the review authority to evaluate the conformance of the proposed development or facility with the ~~aquaculture~~ policies and standards of the certified LCP:

1. **Maps**. An area map identifying the location of the development or facility, and any proposed intake structures and outfalls. The map should be based upon an official map of the U.S. Geologic Survey (USGS) with a scale appropriate to the geographic surroundings.

2. **Project plans.** Plans of the development or facility drawn to scale and including:

   a. A site plan of the development or facility depicting all structures, ponds, raceways, holding tanks, water containing or conveyance structures, work areas, paving, fencing, property lines;

   b. A map identifying surrounding uses and delineating existing improvements and property lines;

   c. Grading and drainage plans;

   d. Floor plans;

   e. Building elevations; and

   f. Landscaping plans.

3. **Project description.** A general description of the development or facility, indicating the total number of ponds, raceways, holding tanks, and other similar water containing or conveyance structures.

4. **Flow diagram.** A flow Diagram of the development or the facility that contains all subflows, inputs, and outputs to the facility, with discharge rates expected at different times.

5. **Days of operation.** The projected number of operating days for the facility on a monthly basis throughout a calendar year.

6. **Species list.** A list of species of aquatic animals and plants held and fed, or introduced to the facility. For each species, the application shall specify the total weight produced by the facility per year in pounds of harvestable weight, and the maximum weight present at any one time. The values given should be representative of normal operation.

7. **Feeding poundage.** The total pounds of food fed during the calendar month of maximum feeding, based upon normal operation.

8. **Discharge data.** A list of the projected types, maximum daily amounts, and maximum concentration of all drugs, disinfectants, and other chemicals that will be used at the facility that could ultimately be discharged to coastal waters. Material Safety Data Sheets shall be submitted for each such product that could be discharged. The basis of calculations and/or a comparison of the reported concentrations with analytical method detection limits could be included.

9. **Best management practices (BMPs) plan.** A copy of a complete BMPs Plan in compliance with Section 18.42.046.C.

10. **Monitoring and maintenance plan (MMP).** A copy of a MMP. The MMP shall detail inspection and maintenance activities for structural BMPs and lay out a procedure for periodic evaluations of nonstructural BMPs.

11. **Outfalls.** A description of the number and nature of any outfalls from the facility to the receiving water, using a sketch, diagram or photograph to depict the facility; intakes, outfalls, and receiving water. The maximum daily, maximum 30-day average, and long-term (greater than six months) average flow (gpd) from each outfall shall be provided.

12. **Alternatives analysis**. An alternatives analysis of whether there are feasible less environmentally damaging alternatives for any proposal to place intake or discharge lines above ground within the harbor district and the adjoining tidelands and submerged lands of the Noyo River**, or on the face of coastal bluffs within the Timber Resources Industrial district**. Alternatives to be evaluated shall include placing lines under ground through use of discretional drilling or trenching, using closed-loop aqua culture systems that do not require offshore intake and discharge line, connecting discharge line to the existing sanitary sewer system, and minimizing impacts through alternative locations.

13. **Compatibility.** A visual analysis of whether the aquaculture development facility would be visually compatible with the character of the surrounding area.

14. **Biological resource survey.** A survey of biological resources of the development site that includes a narrative description and map of the biological resources, an analysis of the potential impacts of the proposed development of the identified habitat or species, project alternatives designed to avoid and minimize impacts to sensitive resources, and mitigation measures that would minimize or mitigate residual impacts that cannot be avoided through project alternatives.

15. **Geotechnical study.** All aquaculture development or facilities, including any intake or discharge lines, located in or near an area subject to geologic or flood hazards, including but not limited to bluff erosion, slope stability, seismic events, liquefaction, tsunamis, floods and wave attacks, shall be required to submit a geologic/soils/geotechnical study report prepared by a Registered Geologist, a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE) that identifies any geologic hazards affecting the development site and any necessary mitigation measures. The geologic/soils/geotechnical report shall include a statement by the consultant that the development will be safe from geologic hazards and that the development will in no way contribute to instability on or off the subject site.

16. **Water and sewer capability.** Evidence demonstrating the availability of adequate water and sewer services to serve the aquaculture development or facility.

C. **Best Management Practices Plan.** Applicants for aquaculture development or facilities shall develop and implement a Best Management Practices (BMP) Plan that ensures all development will be carried out in a manner that sustains the biological productivity of coastal waters, protects human health and maintains healthy populations of all species of marine organisms. BMPs are schedules of activities, prohibitions of practices, cleaning and maintenance procedures, employee training, treatment methods, etc. that are employed to control discharge of pollutants.

1. **Application Requirements.** A complete BMP Plan shall be submitted with the permit application. The BMP Plan shall document specific BMPs and their standard operating procedures. An approved BMP Plan shall be fully implemented prior to commencement of any discharges associated with the development.

2. **Minimum Requirements.** At a minimum, structural **and/or non-structural** BMPs shall be proposed, to the maximum extent feasible, to:

   a. Minimize the reintroduction of solids removed through the treatment of the water supply;

   b. Minimize excess feed entering the aquatic animal production system;

   c. Minimize the discharge of unconsumed food;

   d. Minimize discharge of feeds containing high levels of fine particulates and/o high levels of phosphorus;

   e. Minimize discharges to surface waters of blood, viscera, fish carcasses, or transport water containing blood associated with the transport or harvesting of fish;

   f. Clean raceways, ponds, tanks or settling ponds at frequencies that minimize the disturbance and subsequent discharge of accumulated solids during routine activities, such as harvesting and grading of fish, and ensure adequate retention volume for the settling ponds;

   g. Maintain in-system technologies to prevent the overflow of any floating matter and subsequent by-pass of treatment technologies;

   h. Ensure the safe storage of drugs and chemicals to avoid inadvertent spillage or release into the aquatic animal production facility;

   I. Settle, screen, or filter effluent to minimize or eliminate the discharge of waste solids to the greatest extent practicable;

   j. Collect aquatic animal; mortalities on a regular basis. Store and dispose of aquatic animal mortalities to prevent discharge to surface waters; and

   k. Minimize the potential escape of non-native species by, for example, installing physical barrier such as effluent screens. No animals of a non-native species shall be intentionally released under any circumstances.

3. **Staff.** Facility staff shall be familiar with the BMP Plan and adequately trained in the specific procedures that the BMP Plan requires.

4. **Document availability.** The BMP Plan shall be maintained at all times at the aquaculture development or facilities.

D. **Best management practices monitoring and maintenance.**

1. **Monitoring and Maintenance Plan (MMP).** Applicants for aquaculture facilities shall develop and implement a MMP that ensures all development continues to be carried out in a manner that sustains the biologic productivity of coastal waters, protects human health, and maintains healthy populations of marine organisms.

2. **MMP approval and implementation.** A complete MMP shall be submitted to the permitting authority with the permit application. An approved MMP shall be fully implemented within three months of the commencement of development operations.

3. **MMP and BMP coordination.** The MMP shall describe inspection and maintenance of activities to be performed for structural BMPs and the associated activity frequencies. Structural BMPs include practices, methods, and measures of a mechanical or biological nature. Major observations to be made during inspections include:

   a. Locations of discharges from the development;

   b. BMPs that are in the need of maintenance;

   c. BMPs that are not performing, failing to operate, or inadequate; and

   d. Locations where additional BMPs are needed.

4. **MMP evaluation.** The MMP shall include a procedure for periodic evaluations of structural and nonstructural BMPs needed to achieve compliance with the requirements of the certified LCP. The MMP shall also include written reporting requirements that provide for the submittal of monitoring reports at a frequency acceptable to the permitting authority, but not less frequent than once per year.

E. **Noncompliance.** Applicants for aquaculture facilities shall develop a Contingency Plan (CP) to be immediately enacted should the MMP results show noncompliance with the requirements of the certified LCP.

1. **Contingency Plan (CP).** The CP shall include instructions to notify the permit issuing authority, determine the source of noncompliance, eliminate the source, and monitor the discharge to verify that the noncompliance has been eliminated. The instructions shall be consistent with Subsection E.3 below. Key operating and site management personnel shall be familiar wit the contents of the CP.

2. **CP Approval.** A complete CP shall be submitted to the permitting authority for approval prior to issuance of the CDP.

3. **Corrective CP Measures.** Where corrective CP measures would not constitute development under Section 30106 of the Coastal Act, the permittee shall implement such corrective CP measures consistent with the requirements of the CP immediately following discovery of noncompliance with the approved permit or the certified LCP requirements. Where corrective CP measures would constitute development under Section 30106 of the Coastal Act, implementation of such corrective measures shall require an amendment to the original Coastal Development Permit.

F. **Permit Amendments.** Coastal Development Permits for aquaculture development or facilities shall be conditioned to require a permit amendment whenever there is a proposed change in the facility, including changes in the nature of the discharges from the facility.

18.42.050 - Bed and Breakfast Inns (B&Bs)

This Section establishes standards for the development and operation of Bed and Breakfast Inns (B&B), where allowed by Article 2 (Zoning Districts and Allowable Land Uses). The intent of these provisions is to ensure the compatibility between the B&B and nearby residential uses.

A. **Limitation on number within the RL zoning district.** No bed and breakfast inn shall be allowed within the RL zoning district, except those which existed in the RL zone as of December 2, 2002. These existing B&Bs may be expanded as allowed by Use Permit approval.

B. **Exterior appearance.** The exterior appearance of an existing structure housing an existing B&B in the RL zoning district shall not be altered from its residential character except for allowed signs, and any structural modifications necessary to comply with California Code of Regulations Title 24. An addition to an existing B&B in the RL zoning district shall require Design Review in compliance with Section 18.71.050, to ensure that the structure is designed consistent with the residential character of the surrounding neighborhood.

C. **Limitation on services provided.** Service shall be limited to the rental of bedrooms or suites; and meal/beverage service shall be provided for registered guests only. Separate/additional kitchens for guests are not allowed. Additional services and special events may be allowed only as specifically provided by the Use Permit approval for the facility, where the review authority determines that the type and frequency of the approved services and events will not adversely affect the residential character of the neighborhood, or allow for a use more intensive than typically associated with a B&B within the City.

D. **Off-street parking.** Off-street parking shall be provided at a ratio of one space for each guest room, plus two spaces for the on-site owner/manager of the B&B. Parking shall not be located in the required front and side setbacks; and any night lighting for the parking area shall be limited to the minimum number of fixtures and illumination levels necessary for safety, and shall comply with Section 18.30.070 (Outdoor Lighting).

E. **Signs.** See Chapter 18.38.

18.42.060 - Child Day Care Facilities

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) Child day care facilities shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by the California Department of Social Services (DSS). DSS Licensing is required for all facilities.

B. **Definitions.** Definitions of the child day care facilities regulated by this Section are in Article 10 (Glossary) under "Day Care."

C. **Standards for large family day care homes.** As required by State law, a Minor Use Permit for a large family day care home shall be approved if it complies with the following standards.

1. **Location requirements.** In order to avoid the concentration of intensive, non-residential land uses in residential neighborhoods, maintain residential character, and compatibility with adjacent residential uses, no large family day care home shall be located within 300 feet of an existing large family day care home, or child day care center. In no case shall a residential property be directly abutted by a large family day care center on two or more sides.

2. **Parking, drop-off area.**

   a. At least two off-street parking spaces shall be provided exclusively for dropping off and picking up children. The driveway may be used to provide the off-street parking required by Section 18.36.040 (Number of Parking Spaces Required) for a single-family dwelling, if the parking will not obstruct any required drop-off and pick up areas nor block any sidewalks or other public access. Alternative parking and drop-off arrangements may be required by the review authority based on traffic and pedestrian safety considerations.

   b. A home located on a street with a speed limit of 30 miles per hour or greater shall provide a drop-off/pick-up area designed to prevent vehicles from backing onto the street (e.g., circular driveway).

3. **Outdoor activity areas.**

   a. Any side or rear setback areas intended for day care use shall be enclosed with a fence or wall to separate the children from neighboring properties.

   b. Outdoor recreation equipment over eight feet in height shall not be located within a required side setback, and shall be set back a minimum of five feet from a rear property line.

4. **Noise.** Noise generated from the large family day care home shall not exceed the standards in Municipal Code Chapter 9.44.

5. **Additional standards.** Each large family day care home shall comply with applicable building and fire codes, and standards adopted by the State, and Social Services Department licensing requirements (California Code of Regulations, Title 22, Division 2).

D. **Standards for child day care centers.**

1. **Fencing.** Design Review shall be required for any proposed fencing.

2. **Parking and loading.**

   a. Off-street parking shall be provided as required through the Minor Use Permit process, but shall be a minimum of one space per employee on the largest shift, plus one space for each 10 children authorized by the State license. An exception to these off-street parking requirements may be granted if the facility complies with the following criteria:

      (1) The exception shall be granted only for uses in an existing building, and shall not be granted for any expansion of gross floor area or new construction;

      (2) Off-street parking shall be provided on the site in the maximum amount feasible;

      (3) The exception shall only be granted in a situation where the City Engineer has determined that the exception will not result in potentially unsafe conditions for vehicles or pedestrians;

      (4) Each Minor Use Permit that grants an off-street parking exception shall be reviewed annually, and if it is found that the use of on-street parking spaces by the facility is creating a nuisance, the City may initiate proceedings to revoke the Minor Use Permit.

   b. Picking up and dropping off of children shall not create unsafe conditions. Loading and unloading of children from vehicles shall only be allowed in the driveway or in an approved parking area.

3. **Noise.** Potential noise sources shall be identified during the Minor Use Permit process, and noise attenuation and sound dampening shall be addressed.

18.42.070 - Drive-Through Facilities

This Section establishes standards for the development and operation of drive-through facilities for very limited types of retail or service activities (e.g., ATMs, banks, or pharmacies) where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. **General standards.**

1. **Design objectives.** Drive-through facilities shall only be permitted if the design and operation avoids congestion, excessive pavement, litter, and noise.

2. **Limitation on location.** A drive-through facility shall only be located to the rear of a building. A drive-through facility shall be located within the CBD zone only if the review authority determines that the facility is ancillary to a use that is primarily pedestrian oriented.

B. **On-site circulation standards.** A drive-through facility shall be provided internal circulation and traffic control as follows.

1. **Aisle design.**

a. The entrance/exit of any drive aisle shall be a minimum of 50 feet from an intersection of public rights-of-way (measured at the closest intersecting curbs) and at least 25 feet from the edge of any driveway on an adjoining parcel.

b. Drive aisles shall be designed with a minimum 10-foot interior radius at curves and a minimum 10-foot width.

2. **Stacking area.** A clearly identified area shall be provided for vehicles waiting for drive-up or drive-through service that is physically separated from other on-site traffic circulation.

a. The stacking area shall accommodate a minimum of three cars for each drive-up or drive-through window in addition to the vehicle receiving service.

b. The stacking area shall be located at and before the service window (e.g., pharmacy, teller, etc.).

c. Separation of the stacking area from other traffic shall be by concrete curbing or paint striping on at least one side of the lane.

d. Stacking areas adjacent and parallel to streets or public rights-of-way shall be prohibited.

3. **Walkways.** An on-site pedestrian walkway shall not intersect a drive-through aisle.

4. **Exceptions.** The review authority may approve alternatives to the requirements of Subsections B.1, through B.3 where it first finds that the alternate design will, given the characteristics of the site, be equally effective in ensuring on- and off-site pedestrian and vehicular traffic safety and minimizing traffic congestion.

C. **Signs.** Each entrance to, and exit from, a drive-through aisle shall be clearly marked to show the direction of traffic flow by signs and pavement markings or raised curbs. Signage shall also be provided to indicate whether the drive-through facility is open or closed.

18.42.080 - Home Occupations

The following standards for home occupations are intended to provide reasonable opportunities for employment within the home, while avoiding changes to the residential character of a dwelling that accommodates a home occupation, or the surrounding neighborhood, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. **Business License required.** A home occupation shall require a City Business License.

B. **Limitations on use.** The following are examples of business activities that may be approved as home occupations, and uses that are prohibited as home occupations.

1. **Uses allowed as home occupations.** The following and other uses determined by the Director to be similar may be approved by the Director in compliance with this Section.

   a. Art and craft work (ceramics, painting, photography, sculpture, etc.);

   b. Tailors, sewing, etc.; and

   c. Office-only uses, including an office for an architect, attorney, consultant, counselor, insurance agent, planner, tutor, writer, etc., and electronic commerce.

2. **Uses prohibited as home occupations.** The following are examples of business activities that are not incidental to or compatible with residential activities, and are, therefore, prohibited as home occupations:

   a. Adult entertainment activities/businesses;

   b. Animal hospitals and boarding facilities;

   c. Automotive and other vehicle repair and service (body or mechanical), painting, storage, or upholstery, or the repair, reconditioning, servicing, or manufacture of any internal combustion or diesel engines, or of any motor vehicle, including automobiles, boats, motorcycles, or trucks;

   d. Contractor's and other storage yards;

   e. Dismantling, junk, or scrap yards;

   f. Fitness/health facilities (except that one-on-one personal trainers may be allowed);

   g. Medical clinics, laboratories, or doctor's offices;

   h. Personal services as defined in Article 10 (Glossary), except that licensed massage therapy and physical therapy may be allowed as home occupations in compliance with this Section;

   i. On-site sales, except that mail order businesses may be allowed where there is no stock-in-trade on the site;

   j. Uses which require explosives or highly combustible or toxic materials;

   k. Welding and machine shop operations;

   l. Wood cutting businesses; or

   m. Other uses the Director determines to be similar to those listed above.

C. **Operating standards.** Home occupations shall comply with all of the following operating standards.

1. **Accessory use.** The home occupation shall be clearly secondary to the full-time use of the property as a residence.

2. **Location of home occupation activities.**

   a. **RR zoning district.** Allowed home occupation activities may be conducted within an approved accessory structure in the RR zoning district, provided that two covered parking spaces are continually maintained.

   b. **Other zones.** All home occupation activities shall be confined completely to one room within the primary dwelling, which shall not occupy more than 25 percent of the gross floor area of the ground floor. Garages or other enclosed accessory structures may be used for home occupation purposes only if required off-street parking spaces are continually maintained. Horticulture activities may be conducted outdoors, but only within the rear one-third of the site.

3. **Visibility.** The use shall not require any exterior modification to the structure not customarily found in a dwelling, nor shall the home occupation activity be visible from a public right-of-way, or from neighboring residential properties.

4. **Signs.** There shall be no advertising signs, other than one name plate, not exceeding one square foot in area, and only if attached flush to a wall of the structure.

5. **Safety.** Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises. The use shall not employ the storage of explosive, flammable, or hazardous materials beyond those normally associated with a residential use.

6. **Off-site effects.** No home occupation activity shall create dust, electrical interference, fumes, gas, glare, light, noise, odor, smoke, toxic/hazardous materials, vibration, or other hazards or nuisances as determined by the Director.

7. **Outdoor display or storage.** There shall be no window display or outdoor storage or display of equipment, materials, or supplies associated with the home occupation.

8. **Employees.** A home occupation shall have no on-site employees other than full-time residents of the dwelling.

9. **Client/customer visits.** The home occupation shall be operated so as to not require more than eight vehicle trips per day of clients, customers, visitors, and/or service visits to the residence. On-site presence of clients or customers shall be limited to one client or family at a time, and only between the hours of 9:00 a.m. and 8:00 p.m.

10. **Motor vehicles.** There shall be no motor vehicles used or kept on the premises, except residents' passenger vehicles, and/or one pickup truck, van, or similar vehicle not exceeding 1.5 ton carrying capacity. The home occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises in a manner different from normal residential usage, except for FedEx, UPS, or USPS-type home deliveries/pick-ups. The Commission may authorize other types and/or additional vehicles with Use Permit approval.

11. **Utility service modifications.** No utility service to the dwelling shall be modified solely to accommodate a home occupation, other than as required for normal residential use.

D. **Home working operations.** Small-scale commercial wood and metal working may be authorized by Minor Use Permit as a home occupation, provided that the review authority may require conditions of approval limiting hours of operation, noise levels, and/or any other aspect of the operation, to ensure compatibility with on-site and adjacent residential uses.

18.42.090 - Live/Work Units

A. **Purpose.** This Section provides standards for the development of new live/work units and for the reuse of existing commercial and industrial structures to accommodate live/work opportunities where allowed by Article 2 (Zoning Districts and Allowable Land Uses). A live/work unit shall function predominantly as work space with incidental residential accommodations that meet basic habitability requirements. The standards of this Section do not apply to mixed use projects, which are instead subject to Section 18.42.100 (Mixed Use Projects).

B. **Application requirements.** In addition to the information and materials required for a Use Permit application by this Development Code, the review authority may require a Use Permit application for a live/work unit to include a Phase I Environmental Assessment for the site, including an expanded site investigation to determine whether lead based paint and asbestos hazards are present in an existing structure proposed for conversion to live/work. The purpose of this requirement is to assess whether there are any hazardous or toxic materials on the site that could pose a health risk to the residents. If the Phase I assessment shows potential health risks, a Phase 2 Environmental Assessment shall be prepared and submitted to the Department in order to determine if remediation may be required.

C. **Limitations on use.** The nonresidential component of a live/work project shall only be a use allowed within the applicable zoning district. A live/work unit shall not be established or used in conjunction with any of the following activities:

1. Adult businesses;

2. Vehicle maintenance or repair (e.g., body or mechanical work, including boats and recreational vehicles), vehicle detailing and painting, upholstery, etc.);

3. Storage of flammable liquids or hazardous materials beyond that normally associated with a residential use;

4. Welding, machining, or any open flame work; and

5. Any other activity or use, as determined by the Director to not be compatible with residential activities and/or to have the possibility of affecting the health or safety of live/work unit residents, because of the potential for the use to create dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or would be hazardous because of materials, processes, products, or wastes.

D. **Residential density.** Live/work units shall not exceed a maximum density of 15 units per acre.

E. **Occupancy requirement.** The residential space within a live/work unit shall be occupied by at least one individual employed in the business conducted within the live/work unit.

F. **Design standards.**

1. **Floor area requirements.** The minimum net total floor area of a live/work unit shall be 1,000 square feet. No more than 30 percent or 400 square feet, whichever is greater, shall be reserved for living space as defined under "Live/Work Unit" in Article 10 (Glossary). All floor area other than that reserved for living space shall be reserved and regularly used for working space.

2. **Separation and access.** Each live/work unit shall be separated from other live/work units or other uses in the structure. Access to each live/work unit shall be provided from a public street, or common access areas, corridors, or halls. The access to each unit shall be clearly separate from other live/work units or other uses within the structure.

3. **Facilities for commercial or industrial activities, location.** A live/work unit shall be designed to accommodate commercial or industrial uses as evidenced by the provision of flooring, interior storage, ventilation, and other physical improvements of the type commonly found in exclusively commercial or

industrial facilities used for the same work activity. The ground floor of a live/work unit shall be used only for non-residential purposes.

4. **Integration of living and working space.** Areas within a live/work unit that are designated as living space shall be an integral part of the live/work unit and not separated from the work space. The living space of a live/work unit shall be accessed only by means of an interior connection from the work space, and shall have no exterior access except as required by the Building Code.

5. **Mixed occupancy structures.** If a structure contains mixed occupancies of live/work units and other nonresidential uses, occupancies other than live/work shall meet all applicable requirements for those uses, and proper occupancy separations shall be provided between the live/work units and other occupancies, as determined by the Building Official.

6. **Parking.** Each live/work unit shall be provided with at least two off-street parking spaces. The review authority may modify this requirement for the use of existing structures with limited parking.

G. **Operating requirements.**

1. **Sale or rental of portions of unit.** No portion of a live/work unit may be separately rented or sold as a commercial or industrial space for any person not living in the premises or as a residential space for any person not working in the same unit.

2. **Notice to occupants.** The owner or developer of any structure containing live/work units shall provide written notice to all live/work occupants and users that the surrounding area may be subject to levels of dust, fumes, noise, or other effects associated with commercial and industrial uses at higher levels than would be expected in more typical residential areas. State and Federal health regulations notwithstanding, noise and other standards shall be those applicable to commercial or industrial properties in the applicable zoning district.

3. **On-premises sales.** On-premises sales of goods is limited to those produced within the live/work unit; provided, the retail sales activity shall be incidental to the primary production work within the unit. These provisions shall allow occasional open studio programs and gallery shows.

4. **Nonresident employees.** Up to two persons who do not reside in the live/work unit may work in the unit, unless this employment is prohibited or limited by the Use Permit. The employment of three or more persons who do not reside in the live/work unit may be allowed, subject to Use Permit approval, based on an additional finding that the employment will not adversely affect parking and traffic conditions in the immediate vicinity of the unit. The employment of any persons who do not reside in the live/work unit shall comply with all applicable Uniform Building Code (UBC) requirements.

5. **Client and customer visits.** Client and customer visits to live/work units are allowed subject to any applicable conditions of the Use Permit to ensure compatibility with adjacent commercial or industrial uses, or adjacent residentially-zoned areas.

H. **Changes in use.** After approval, a live/work unit shall not be converted to either entirely residential use or entirely business use unless authorized through Use Permit approval. No live/work unit shall be changed to exclusively residential use in any structure where residential use is not allowed, where two or more residential units already exist, or where the conversion would produce more than two attached residential units.

I. **Required findings.** The approval of a Use Permit for a live/work unit shall require that the review authority first make all of the following findings, in addition to those findings required for Use Permit approval by Section 18.71.060 (Use Permit and Minor Use Permit):

1. The proposed use of each live/work unit is a bona fide commercial or industrial activity consistent with Subsection C. (Limitations on use);

2. The establishment of live/work units will not conflict with nor inhibit commercial or industrial uses in the area where the project is proposed;

3. The structure containing live/work units and each live/work unit within the structure has been designed to ensure that they will function predominantly as work spaces with incidental residential accommodations meeting basic habitability requirements in compliance with applicable regulations; and

4. Any changes proposed to the exterior appearance of the structure will be compatible with adjacent commercial or industrial uses where all adjacent land is zoned for commercial or industrial uses.

18.42.095 – Medical Marijuana Dispensaries

Medical Marijuana Dispensaries, as defined in Section 18.100.020, shall be allowed per the requirements of Fort Bragg Municipal Code Chapter 9.30. (Ord. 851 §3, 2005.)

18.42.100 - Mixed Use Projects

This Section provides standards for the design of mixed use projects, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). A mixed use project combines residential and nonresidential uses on the same site, with the residential units typically located above the nonresidential uses (vertical mixed use). Residential units may be also allowed at ground level behind street-fronting nonresidential uses (horizontal mixed use) only under the limited circumstances specified by this Section.

A. **Design considerations.** A mixed use project shall be designed to achieve the following objectives.

1. The design shall provide for internal compatibility between the residential and non-residential uses on the site.

2. Potential glare, noise, odors, traffic, and other potential nuisance conditions for residents shall be minimized to allow a compatible mix of residential and nonresidential uses on the same site.

3. The design shall take into consideration existing and potential future uses on adjacent properties and shall include specific design features to minimize potential impacts.

4. The design shall ensure that the residential units are of a residential character, and that appropriate privacy between residential units and other uses on the site is provided.

5. Site planning and building design shall provide for convenient pedestrian access from the public street into the nonresidential portions of the project, through such means as courtyards, plazas, walkways, and street furniture.

6. Site planning and building design shall be compatible with and enhance the adjacent and surrounding residential neighborhood in terms of building design, color, exterior materials, landscaping, lighting, roof styles, scale, and signage.

B. **Mix of uses.** A mixed use project may combine residential uses with any other use allowed in the applicable zoning district by where allowed by Article 2 (Zoning Districts and Allowable Land Uses); provided, that where a mixed use

project is proposed with a use that is required to have Minor Use Permit or Use Permit approval in the applicable zoning district, the entire mixed use project shall be subject to that permit requirement.

C. **Maximum density.** The residential component of a mixed use project shall comply with the density requirements of the applicable General Plan designation and zoning district.

D. **Site layout and project design standards.** Each proposed mixed use project shall comply with the property development standards of the applicable zoning district, and the following requirements.

1. **Location of units.** Residential units shall not occupy ground floor street frontage **on the primary street frontage. Residential units are allowed on the first floor of alleys and secondary street frontages.** ~~space adjacent to a public or private street.~~ The ground floor street frontage space within a mixed use building shall be reserved for commercial uses, except for a lobby or other feature providing access to the residential units. **[*CITY REQUESTED MOD*]**

2. **Parking.** In order to encourage the development of residential uses in existing and new commercial areas, the use of shared parking provisions shall be incorporated into mixed use projects in compliance with Section 18.36.080 (Reduction of Parking Requirements).

3. **Loading areas**. Commercial loading areas shall be located away from residential units and shall be screened from view from the residential portion of the project to the maximum extent feasible.

4. **Refuse and recycling areas.** Areas for the collection and storage of refuse and recyclable materials shall be located on the site in locations that are convenient for both the residential and nonresidential uses.

E. **Performance standards.**

1. **Lighting**. Lighting for commercial uses shall be appropriately shielded to limit impacts on the residential units.

2. **Noise.** Each residential unit shall be designed and constructed to minimize nonresidential project noise levels, in compliance with the City's Noise Ordinance.

3. **Hours of operation.** A mixed use project proposing a commercial component that will operate outside of the hours from 8:00 a.m. to 6:00 p.m. shall require Use Permit approval to ensure that the commercial uses will not negatively impact the residential uses within the project, or any adjacent residential uses.

18.42.110 - Mobile/Manufactured Homes and Mobile Home Parks

This Section provides requirements and development standards for the use of mobile homes and manufactured homes as single-family dwellings outside of mobile home parks, and for mobile home parks, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. **Mobile home outside of a mobile home park.**

1. **Site requirements.** The site, and the placement of the mobile home on the site shall comply with all zoning, subdivision, and development standards applicable to a conventional single-family dwelling on the same parcel.

2. **Mobile home design and construction standards.** A mobile home outside of a mobile home park shall comply with the following design and construction standards.

   a. The exterior siding, trim, and roof shall be of the same materials and treatment found in conventionally built residential structures in the surrounding area, and shall appear the same as the exterior materials on any garage or other accessory structure on the same site.

   b. The roof shall have eave and gable overhangs of not less than 12 inches measured from the vertical side of the mobile home, and the roof pitch shall be no less than 3:12.

   c. The mobile home shall be placed on a foundation system, subject to the approval of the Building Official; and

   d. The mobile home is certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 USC Section 4401 et seq.), and has been constructed after January 1, 1989.

B. **Mobile home park standards.** The site for the mobile home park shall comply with the following requirements.

1. **Planning and design objectives.** The City intends that each mobile home park be designed and landscaped to be compatible with adjacent residential and other uses. These standards are intended to provide a means of achieving an environment of stable, desirable character not out of harmony with the surrounding area.

2. **Permit requirements.** A mobile home park shall require Design Review in compliance with Section 18.71.050, in addition to the Use Permit approval required by Section 18.21.030 (Residential Zoning District Allowable Land Uses and Permit Requirements).

3. **Allowable uses.** Use Permit approval for a mobile home park may authorize the following uses in addition to individual mobile homes.

   a. Accessory uses, limited to awnings, portable, demountable or permanent carports, fences or windbreakers, garages, porches, and storage cabinets.

   b. A golf course, lake, park, playground, riding and hiking trails, equestrian facilities, other similar recreational structures and facilities, clubhouses, community centers, laundries, and similar uses; provided that all of these are not allowed on the individual mobile home lots within the mobile home park.

   c. Public utility and public service uses and structures.

4. **Standards**. This Section identifies standards for mobile home park development, recognizing the dual need for moderately priced housing, and standards that will adequately protect residents of the parks and the City as a whole.

   a. **Phased development.** Development may be in phases, so long as each phase complies with the minimum standards of this Section, and no mobile home is occupied in any phase until at least 10 mobile home lots are developed and improved on a minimum of two acres, and authorized by a permit for occupancy in compliance with Health and Safety Code Section 18505.

   b. **Density.** The Commission shall determine the allowable density for each mobile home park, based on the following criteria:

      (1) The provision of the space necessary for compliance with this Section;

      (2) Individual mobile home lots shall be a minimum of 2,400 square feet; and

      (3) In no case shall the density of a mobile home park exceed the maximum density of the General Plan and zoning district designation for the subject site.

   c. **Building lines.** Each structure and mobile home shall have a minimum setback of 15 feet from all exterior property lines; and a minimum setback of 20 feet from the right-of-way of any street adjoining the mobile home park. The resulting setback area shall be landscaped and continually maintained, in compliance with Chapter 18.34 (Landscaping Standards).

   d. **Parking.** Parking shall be provided in compliance with Chapter 18.36 (Parking and Loading).

   e. **Utilities.** All utility distribution facilities (including cable television, communication and electric lines and boxes) within a mobile home park shall be placed underground. The developer is responsible for complying with the requirements of this Subparagraph, and shall make the necessary arrangements with the utility companies for the installation of the required facilities.

   f. **Tenant storage.** A minimum of one 75 cubic foot storage cabinet shall be provided on each mobile home site. Adequate solid waste and recyclable materials storage enclosures shall be provided in compliance with Section 18.30.110.

   g. **Accessory uses.** Accessory uses are those that are incidental to the planned residential use, exist for the sole purpose of service to the residents, are customarily found in multi-family developments, and do not alter the character of the residential use.

      (1) Any structure used for an accessory use shall meet all requirements for a primary structure.

      (2) Allowable accessory uses include a management facility, laundry facility, swimming facilities, recreation room, recreational vehicle storage areas, vending machines, and other uses that, in the opinion of the Commission, are of a similar nature.

      (3) A mobile home park may contain accessory retail and service uses for park residents as authorized by Use Permit approval, and in compliance with Section 18.42.020 (Accessory Retail and Service Uses).

   h. **Travel trailers.** An occupied travel trailer, camper, motor coach, motor home, trailer coach, or any similar vehicle not certified under the National Mobile Home Construction Safety Standards Act of 1974 (42 USC Section 4401 et seq.) shall not be allowed within a mobile home park. Unoccupied trailers and

other recreational vehicles may be stored in an approved on-site storage area where authorized by Use Permit.

i. **Fencing.** A solid masonry wall, fence, or other decorative landscape screening of the maximum height allowed by this Development Code shall be installed as required by the review authority as part of the Use Permit approval for the mobile home park.

j. **Landscaping.** Landscaping shall be provided in compliance with Chapter 18.34 (Landscaping Standards).

k. **Signs.** A mobile home park may be allowed one externally illuminated identification sign not exceeding six feet in height or 24 square feet in area. The sign shall be integrated into the mobile home park landscaping, at a location specified in the Use Permit approval.

l. **Skirting.** Skirting shall be provided along all sides of each mobile home.

m. **Internal streets.** Internal street design shall comply with City street standards except where superceded by a standard required by State law.

18.42.120 - Multi-Family Projects

New or remodeled multi-family projects shall comply with the standards of this Section, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). For the purposes of this Section, the term "remodeled" means the reconstruction or remodeling of at least 50 percent of the gross floor area of the original structure.

A. **Accessory structures.** Accessory structures and uses (e.g., bicycle storage, garages, laundry rooms, recreation facilities, etc.) shall be designed and constructed with an architectural style, exterior colors and materials similar to the structures in the project containing dwelling units.

B. **Building facades adjacent to streets.** A multi-family project of three or more dwelling units shall be designed so that at least 75 percent of the facade of each building adjacent to a public street is occupied by habitable space with windows. Each facade adjacent to a street shall have at least one pedestrian entry into the structure.

C. **Front setback pavement.** No more than 40 percent of the front setback area shall be paved for walkways, driveways, and/or other hardcover pavement.

D. **Parking location.** Off-street parking for a multi-family structure of three or more units shall be located so that it is not visible from the street fronting the parcel. A garage providing parking for a duplex may be located in compliance with the following standards, in addition to the requirements of Chapter 18.36 (Parking and Loading).

1. **Front setback.** A garage shall be set back from the front property line at least 10 feet further than the facade of the dwelling, to reduce visual impact from the street.

2. **Side setback.** When a maintenance easement is granted by the owner of the adjacent parcel to the approval of the Director, a garage may be built to the side property line on that side, but shall be located at least eight feet from the other side property line. Otherwise, a garage shall be set back a minimum of five feet from each side property line.

3. **Rear setback.** A garage shall be set back a minimum of five feet from a rear property line.

4. **Facade width, parking orientation.** The front facade of a garage shall not exceed a width of 25 feet. Tandem parking is allowed.

E. **Open space.** Each multi-family residential project, except a duplex, shall include permanently maintained outdoor open space for each dwelling unit (private space), and for all residents (common space), except where the review authority determines that existing public park or other usable public open space is within convenient walking distance, or that the residential units are part of a mixed use project and/or located in a commercial zoning district.

1. **Area required.** Private and common open space shall be provided as required by Table 4-3.

TABLE 4-3 - MULTI-FAMILY PROJECT OPEN SPACE REQUIREMENTS

Project Size	Minimum Common Open Space Required	Minimum Private Open Space Required
3 or 4 units	200 sf	100 sf for each unit
5 to 10 units	500 sf	150 sf for each unit with patios
11 and more units	100 sf per unit	100 sf for each unit with balconies

2. **Configuration of open space.** Required open space areas shall be designed and located as follows. Landscaping shall comply with the requirements of Chapter 18.34 (Landscaping Standards).

   a. **Common open space.** All required open space shall be: easily accessible; continuous, usable site elements; separated from parking areas; safe and secure. Each common open space area shall have a minimum dimension of 12 feet for three and four unit projects, and 20 feet for projects with five or more units.

   b. **Private open space.** Private open space shall be at the same elevation as, and immediately accessible from within the unit. Each private open space area shall have a minimum dimension of eight feet; except that the review authority may authorize different minimum dimensions for upper-floor balconies where the private open space is provided as a balcony or upper floor court.

   The review authority may allow required open space to be in different locations and/or with different dimensions where it determines that the alternative approach will provide open space of equivalent utility and aesthetic quality.

3. **Maintenance and control of common open space.** Required common open space shall be controlled and permanently maintained by the Home Owners Association (HOA). Provisions for control and maintenance shall be included in property covenants of all common interest developments.

F. **Outdoor lighting.** Outdoor lighting shall be installed and maintained along all vehicular access ways and major walkways, in compliance with 18.30.070 (Outdoor Lighting). The lighting shall be directed onto the driveways and walkways within the development and away from adjacent properties. Lighting of at least one foot candle shall also be installed and maintained within all covered and enclosed parking areas and shall be screened to minimize glare onto public sidewalks. Lighting fixtures/lamps shall be the most energy efficient available. All proposed lighting shall be shown on the required landscape plan.

G. **Storage.** A minimum of 100 cubic feet of lockable storage area shall be provided for each dwelling outside of the unit, with no dimension less than 30 inches.

H. **Television antennas.** Exterior television antennas, other than satellite dishes less than 39 inches in diameter, are not allowed, except for a single common, central antenna, with underground cable service to each dwelling unit. This restriction shall be included in any property covenants of a common interest development.

I. **Window orientation.** Where one or more windows are proposed 10 feet or less from a side lot line, or 10 feet from another residential structure on the same site, Design Review shall ensure, to the extent feasible, that the windows are located and/or screened to provide privacy for residents of both structures.

18.42.130 - Outdoor Displays and Sales

A. **Applicability.** The provisions of this Section apply to temporary and permanent facilities for outdoor display, sales (e.g., garden supply sales, news and flower stands, and similar uses where merchandise is displayed for sale), and outdoor eating areas, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

B. **Temporary outdoor displays and sales.** See Section 18.71.030 (Limited Term Permit).

C. **Permanent outdoor displays and sales.** The permanent outdoor display and sale of merchandise is allowed subject to the following standards.

1. The outdoor display of merchandise shall not exceed a height of six feet above finished grade, unless a greater height is allowed through Minor Use Permit approval.

2. Outdoor display and sales areas shall not encroach into required setback areas or the public right of way. In zoning districts where no setback area is required, the outdoor sales area shall be set back a minimum of 10 feet from adjoining property lines unless otherwise allowed through Minor Use Permit approval.

3. Displayed merchandise 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 driveways, landscaped areas, required parking spaces, or pedestrian walkways. A display shall not obstruct intersection visibility or otherwise create hazards for pedestrian or vehicle traffic.

4. The outdoor display and sales area shall be directly related to a business occupying a permanent structure on the subject parcel.

5. The Director may require that outdoor sales and activity areas other than vehicle sales lots, produce stands, and nursery product sales be screened from the view of adjoining public rights-of-way by decorative walls, fences, or landscaping.

6. Additional signs shall not be provided for the outdoor display and sales area beyond those normally allowed for the primary use.

D. **News and flower stands.**

1. **Location requirements.** A news or flower stand shall:

a. Be located parallel and adjacent to the wall of a structure. A freestanding news or flower stand is allowed only as a roofed kiosk;

b. In the case of a privately owned stand, not be located within the public right-of-way, within three feet of a display window of any structure abutting the sidewalk, or so as to interfere with or restrict the reasonable use of the window for display purposes.

2. **Design and construction requirements.**

   a. A stand shall be soundly constructed of wood, metal, or other suitable permanent material, and designed in a manner and color to be compatible with the adjacent structures whether the stand is opened or closed. Security doors shall be designed as an integral part of the structure.

   b. Shelving shall not exceed eight feet in height nor two feet in depth.

3. **Maintenance.** Each news or flower stand shall be maintained in a clean and neat condition and in good repair, at all times.

4. **Signs.**

   a. The stands shall not be used for advertising or publicity purposes. Signs shall be for identification only, with size and design in compliance with Chapter 18.38 (Signs).

   b. The owners or operators of the outdoor news or flower stand shall display, in a place readily visible to the public, a telephone number and address where the owners may be reached.

5. **Additional product sales.** In addition to the sale of newspapers, magazines, and other periodicals, for newsstands, and flowers and plants, for flower stands, the owners or operators may sell other related accessory products, not to exceed 10 percent of the total merchandise displayed.

E. **Outdoor dining areas.**

1. An outdoor dining area may be allowed accessory and incidental to a restaurant with indoor eating area on the same site; provided, the outdoor eating area shall also comply with the parking requirements of Section 18.36.040 (Number of Parking Spaces Required) for restaurants.

2. Signs shall comply with Chapter 18.38.

18.42.140 - Outdoor Storage

An outdoor storage or work area shall comply with the following requirements, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. **Enclosure and screening required.** Outdoor storage areas shall be entirely enclosed by a solid wall or fence as approved by the review authority with a minimum height of six feet and a maximum height of eight feet.

B. **Maximum height of stored materials.** The materials within the storage area shall not be higher than the fence, except where authorized by the Use Permit for the storage area.

C. **Landscaped setback.** In any case where an outdoor storage area abuts a street right-of-way, the required screening wall or fence shall be set back from the right-of-way as required by the applicable zoning district, and the set back area shall be landscaped to the approval of the Director, and in compliance with Chapter 18.34 (Landscaping Standards).

18.42.144 - Pipelines and Transmission Lines

Pipelines and transmission lines shall comply with the following requirements, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. **Local service facilities.** Lines and facilities for local utility service are permitted in all zones.

B. **New pipeline, electrical, and telecommunications transmission corridors shall be located within existing pipeline or electrical and telecommunications transmission corridors wherever feasible.**

C. **Electrical and telecommunications transmission rights-of-way and pipelines shall be routed to minimize impacts to scenic resources and environmentally sensitive habitat areas according to the following standards:**

a) **Require underground installation of electrical and telecommunication lines where technically and economically feasible, unless it can be demonstrated that other options are less environmentally damaging.**

b) **Scarring, grading, or other vegetative removal shall be minimized and construction areas shall be revegetated with plants native to the area.**

c) **Where above-ground electrical or telecommunications transmission lines are necessary, the design and color of the support towers shall be compatible with the surroundings to the extent feasible. Avoid locating above-ground transmission lines along the crest of hills, bluffs, and in scenic resource areas.**

~~B~~D. **Electric transmission lines.** The location of proposed electric transmission lines shall be reviewed by the Commission and approved by the Council prior to right-of-way acquisition.

18.42.150 - Recycling Facilities

This Section establishes standards and procedures for the siting and operation of various types and sizes of commercial recycling facilities, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. **Reverse vending machines.** Reverse vending machines shall comply with the following standards.

1. **Accessory use only.** Each machine shall be installed only as an accessory use to an allowed primary use.

2. **Location requirements.** If located outside of a structure, a machine shall not occupy parking spaces required by the primary use.

3. **Signs.** Sign area shall not exceed four square feet for each machine, exclusive of operating instructions. The sign area shall be subject to the overall site sign area limitations in Section 18.38.070 (Zoning District Sign Standards).

4. **Lighting.** Each machine shall be illuminated to ensure comfortable and safe operation if the machine is accessible between dusk and dawn. The light source shall be shielded so that glare and reflections are confined within the boundaries of the site.

B. **Small collection facilities.** A small collection facility shall comply with the following standards.

1. **Location requirements.** A small collection facility shall:

a. Not be located within 50 feet of any parcel zoned or occupied for residential use; and

b. Be set back at least 10 feet from any public right-of-way, and not obstruct pedestrian or vehicular circulation.

2. **Maximum size.** A small collection facility shall not occupy more than 350 square feet nor three parking spaces, not including space that would be periodically needed for the removal of materials or exchange of containers.

3. **Appearance of facility.** Collection containers and site fencing shall be of a color and design that is compatible and harmonious with the surrounding uses and neighborhoods.

4. **Operating standards for small collection facilities.** Small collection facilities shall:

   a. Not use power-driven processing equipment, except for reverse vending machines;

   b. Accept only glass, metal, or plastic containers, paper, and reusable items;

   c. Use containers that are constructed with durable waterproof materials, secured from unauthorized removal of material, and shall be of a capacity sufficient to accommodate materials collected and the collection schedule; and

   d. Be screened where determined by the review authority to be necessary because of excessive visibility.

5. **Signs.** Non-illuminated signs may be provided as follows:

   a. Identification signs are allowed with a maximum area of 15 percent for each side of the structure or 12 square feet, whichever is greater. In the case of a wheeled facility, the side shall be measured from the ground to the top of the container;

   b. Additional directional signs, consistent with Chapter 18.38 (Signs), may be approved by the Director if found necessary to facilitate traffic circulation, or if the facility is not visible from the public right-of-way.

6. **Parking requirements.**

   a. No additional parking space shall be required for customers of a small collection facility located in the established parking lot of the primary use. One additional space shall be provided for the attendant, if needed.

   b. Use of parking spaces by the patrons and the attendant shall not reduce available parking spaces below the minimum number required for the primary use unless a parking study, determined to be acceptable by the Director, shows that existing capacity is not fully utilized during the time the recycling facility would be on the site.

C. **Large collection facilities.** A collection facility that is larger than 350 square feet, or on a separate parcel not accessory to a primary use, shall comply with the following standards.

1. **Location requirements.** The facility shall not abut a parcel zoned for residential use.

2. **Container location.** Any containers provided for "after hours" donation of recyclable materials shall be permanently located at least 100 feet from any residential zoning district, constructed of sturdy, have sufficient capacity to accommodate materials collected, and be secured from unauthorized entry or removal of materials.

3. **Screening.** The facility shall be screened from public rights-of-way, by solid masonry walls or located within an enclosed structure.

4. **Setbacks, landscaping.** Structure setbacks and landscaping shall be provided as required for the applicable zoning district.

5. **Outdoor storage.** Exterior storage of material shall be in sturdy containers that are secured and maintained in good condition. Storage shall not be visible above the height of the required solid masonry walls.

6. **Operating standards.**

   a. The site shall be maintained clean, sanitary, and free of litter and any other trash or rubbish, shall be cleaned of loose debris on a daily basis, and shall be maintained free from rodents and other disease vectors.

   b. Dust, fumes, odor, smoke, or vibration, above ambient levels, shall not be detectable on adjoining parcels.

D. **Processing facilities.** Processing facilities shall comply with the following standards.

1. **Location requirements.** The facility shall not abut a parcel zoned or occupied for residential use.

2. **Limitation on activities.** Allowed activities are limited to baling, briquetting, compacting, crushing, grinding, shredding, and sorting of source-separated recyclable materials and repairing of reusable materials. The facility shall not bale, compact, or shred ferrous metals, other than beverage and food containers. Outbound truck shipments from the site shall not exceed an average of two each day.

3. **Maximum size.** The facility shall not exceed 45,000 square feet of floor or ground area.

4. **Container location.** Containers provided for "after hours" donation of recyclable materials shall be permanently located at least 100 feet from any residential zoning district, constructed of sturdy, rustproof materials, have sufficient capacity to accommodate materials collected, and be secured from unauthorized entry or removal of the materials; and

5. **Screening.** The facility shall be screened from public rights-of-way, by solid masonry walls or located within an enclosed structure;

6. **Outdoor storage.** Exterior storage of material shall be in sturdy containers or enclosures that are secured and maintained in good condition. Storage shall not be visible above the height of the required solid masonry walls;

7. **Operating standards.** Dust, fumes, odor, smoke, or vibration, above ambient levels, shall not be detectable on adjoining parcels.

18.42.160 - Residential Accessory Uses and Structures

This Section provides standards for residential accessory uses and structures, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). These requirements do not apply to residential second units, which are instead regulated by Section 18.42.170 (Second Units).

A. **Limitation on number.** Only one residential accessory structure shall be allowed on any parcel in addition to a detached garage, except in the RR and RS zoning districts, and except where a site is two times or more the minimum lot area required for a new parcel in the applicable zoning district.

B. **Relationship to primary use.** An accessory use and/or structure shall be incidental to the primary residential use of the site, and shall not alter the character of the primary use.

C. **Timing of installation.** A residential accessory structure shall only be constructed concurrent with or after the construction of the primary structure on the same site, unless:

1. The site is within the RR zoning district, is one acre or larger, and the proposed structure is a garage; or

2. Construction in advance of a primary structure is authorized through Minor Use Permit approval.

D. **Attached structures.** An accessory structure attached to the primary structure shall comply with all zoning district requirements applicable to the primary structure, including height limits, site coverage, and setbacks; and shall also comply with any applicable requirements of Subsection F.

E. **Detached structures.** An accessory structure that is detached from the primary structure shall comply with the following standards, except where Subsection F. establishes a different requirement for a specific type of accessory structure.

1. **Setbacks.**

a. **Front setback.** An accessory structure shall not be located within a required front setback.

b. **Side and rear setbacks.** An accessory structure not exceeding 10 feet in height shall maintain side and rear setbacks of at least five feet. An accessory structure with a height greater than 10 feet shall comply with the setback requirements of the applicable zoning district.

c. **Separation between structures.** An accessory structure shall maintain at least a five-foot separation from other accessory structures and the primary dwelling unit.

d. **Double-frontage lot.** An accessory structure shall not occupy the front half of a parcel, or either front quarter of a double-frontage lot.

e. **Garage accessible from an alley.** Where an accessory garage is accessible to vehicles from an alley, it shall be located not less than 25 feet from the opposite side of the alley.

2. **Height limit.** The height of an accessory structure other than a detached garage shall not exceed 12 feet, except where a greater height is authorized through Minor Use Permit approval. **The height limit of a detached garage including any accessory uses, structures, and additions built into or on the detached garage shall not exceed 16 feet, except where a greater height is authorized through Minor Use Permit approval.** [*CITY REQUESTED MOD*]

3. **Coverage and size limitations.** Where permitted, the aggregate coverage of accessory structures in required side and rear setbacks shall not exceed 500 square feet. The maximum site coverage for all structures on a parcel shall comply with the requirements of the applicable zoning district.

F. **Standards for specific accessory uses and structures.** The following requirements apply to the specific types of accessory structures listed, in addition to the requirements of Subsection A. – E, as applicable.

1. **Antennas.** Antennas shall comply with the requirements of Chapter 18.44 (Telecommunications Facilities).

2. **Garages.** A garage for a single-family dwelling shall comply with the following requirements. A garage for a multi-family project shall comply with the requirements of Section 18.42.120 (Multi-Family Projects). This limitation does not apply to double lots.

   a. **Limitation on number.** A single parcel shall have only one attached or detached garage, except that this limitation shall not apply in the RR and RS zoning districts, or to a site that is two times or more the minimum lot area required for a new parcel in the applicable zoning district

   b. **Front setback.** Garages shall comply with the garage front setback requirements of the applicable zoning district.

   c. **Side setbacks.** When a maintenance easement is granted by the owner of the adjacent parcel to the approval of the Director, a garage may be built to the side property line on that side, but shall be located at least eight feet from the other side property line. Otherwise, a garage shall be set back a minimum of five feet from side property lines.

   d. **Rear setback.** A garage shall be set back a minimum of five feet from the rear property line.

   e. **Facade width, parking orientation.** The facade of any garage facing a street shall not exceed a width of 25 feet.

3. **Greenhouses.** An accessory greenhouse may occupy up to 400 square feet for each dwelling unit in the RL and RM, zoning districts; and 1,000 square feet or five percent of the parcel area, whichever is smaller, in the RR or RS zoning districts. Accessory greenhouses are not allowed in the RH or RVH zones.

4. **Guest houses.** Guest houses shall comply with the requirements for second units in Section 18.42.170.

5. **Patio covers.** A patio cover that is attached to or detached from the primary dwelling, and open on at least three sides, may be located within the required rear setback subject to the following:

   a. The five-foot separation from the primary dwelling unit required by Subparagraph E.1.c (Separation between structures), above does not apply;

   b. The structure shall comply with the coverage and size limitations of Subparagraph E.3 (Coverage and size limitations), above; and

   c. No part of the patio cover shall be closer than 10 feet to a property line.

6. **Swimming pools.** Non-commercial swimming pools are an allowed accessory use in any zoning district subject to the following requirements:

   a. **Setbacks.** No swimming pool shall be located within a required front or side setback, or within 10 feet of any property line; and

   b. **Fence or wall.** No swimming pool shall be located within three feet of a fence or wall.

7. **Tennis and other recreational courts.** Non-commercial outdoor tennis courts and courts for other sports, including basketball and racquetball, accessory to a residential use shall comply with the following requirements:

   a. **Setbacks.** No court shall be located within a required setback, or within 10 feet of a property line; and

   b. **Fencing.** Court fencing shall comply with Section 18.30.050 (Fences, Walls, and Screening); and

   c. **Lighting.** Court lighting shall require Minor Use Permit approval, and shall not exceed a maximum height of 20 feet, measured from the court surface. The lighting shall be directed downward, shall only illuminate the court, and shall not illuminate adjacent property, in compliance with Section 18.30.070 (Outdoor Lighting).

8. **Workshops, ~~or~~ studios, and storage areas** . An accessory structure intended as a workshop or studio for artwork, crafts, light hand manufacturing, ~~or~~ hobbies **and/or storage**, is subject to the following standards:

   a. **Limitation on use.** The use of an accessory structure as a studio shall be limited to: non-commercial hobbies or amusements; maintenance of the primary structure or setbacks; artistic endeavors, including painting, photography, or sculpture; or for other similar purposes. Any use of an accessory workshop for any commercial activity shall comply with Section 18.42.080 (Home Occupations); and

   b. **Floor area.** A workshop **studio and/or storage area** footprint shall not occupy an area larger than 25 percent of the building footprint of the primary structure; ~~except where a workshop is combined with a garage. See Subsection F.2. (Garages), above.~~ **[*CITY REQUESTED MOD*]**

18.42.170 - Second Units

This Section establishes standards for residential second units, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). An application for a second unit that complies with the standards of this Section shall be approved ministerially, without discretionary review or a public hearing.

A. **Limitation on location.** A second unit is not allowed on a parcel where access to the parking required for the second unit is from the same street as the access to the parking for the primary dwelling, and the curb-to-curb width of the street is less than 36 feet. Access from an alley may be approved only if the alley has adequate drainage facilities, and has adequate width and, in the case of a dead-end alley, adequate turnaround area for emergency vehicles.

B. **Limitation on number of units.** No more than one second unit shall be approved on a single parcel.

C. **Minimum site area.** A parcel proposed for a second unit shall be a minimum of 6,000 square feet.

D. **Relationship to primary use.**

1. **Size, style.** A second unit shall be incidental and subordinate to the primary single-family residential use of the site in terms of size, location, and appearance, and shall not alter the character of the primary structure. The architectural style, exterior materials, and colors of the second unit shall be compatible with the primary dwelling unit.

2. **Timing of construction.** A second unit may be constructed simultaneously with, or after the primary dwelling. In addition, an existing dwelling that complies with the design standards for second units in Subsection E. may be considered a second unit, and a new primary unit may be constructed which would then be considered the primary dwelling unit.

E. **Second unit design standards.** A second unit shall comply with the following standards **and shall be consistent with the provisions of the applicable zoning district and the policies and development standards of the certified LCP**.

1. **Height limit.** A second unit shall be limited to 18 feet and one story. A second unit located over a garage may be allowed with a maximum height of 25 feet with Minor Use Permit approval.

2. **Setbacks.** A second unit shall comply with the setback requirements of the applicable zoning district, unless the second unit is located in a nonconforming structure as defined by Section 18.90.020. No second unit may be permitted above a garage unless the unit complies with the setback standards of the applicable zoning district.

~~4~~3. **Maximum floor area.**

a. The floor area of a second unit shall not exceed 960 square feet.

b. For purposes of computing the floor area of a second unit that is detached from the primary unit, all enclosed areas accessed from within the second unit shall be included.

c. An on-site enclosed storage area, or garage of up to 400 square feet, shall not be included when calculating the floor area of the second unit, provided that no internal doorway or passage connects the storage or garage and the second unit.

~~5~~4. **Separate entrance required.** An attached second unit shall have an entrance separate from the entrance to the primary dwelling.

~~6~~5. **Window placement.** A second unit that is placed 20 feet or less from a residential unit on the same parcel or an adjacent parcel shall not have windows that directly face windows in the other unit. A second unit that is two stories or located over a garage shall not have windows or balconies that directly face a neighboring yard. This limitation applies only to side yards, not to windows facing alleys.

~~7~~6. **Site coverage.** The maximum site coverage by structures and impervious surfaces shall not exceed 50 percent of the net site area or the maximum coverage allowed by the applicable zoning district, whichever is less.

(7) Services. The applicant shall provide evidence of adequate services to serve the second residential unit including water supply and sewage disposal.

(8) Public Access. Second residential units shall not obstruct public access to and along the coast, or public trails.

(9) Visual Resources. Second residential units shall not significantly obstruct public views from any public road, trail, or public recreation area to, and along the coast and shall be compatible with the character of the area.

(10) Environmentally Sensitive Habitat Areas and Wetlands. All development associated with second residential units shall provide adequate buffers from environmentally sensitive habitat areas consistent with all LCP requirements.

(11) Agricultural Lands. All development associated with second residential units shall be prohibited on prime agricultural soils and where there are no prime soils be sited so as to minimize impacts to ongoing agriculturally-related activities.

(12) The City shall only grant approval of a Second Unit if the City determines that the means of accommodating the Second Unit: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Second Unit will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Second Unit.

F. **Off-street parking requirements.** At least one off-street paved parking space shall be provided for a second unit or carriage house in addition to the parking required for the primary dwelling by Chapter 18.36 (Parking and Loading). The parking space shall comply with the location and design requirements of Chapter 18.36. If the primary dwelling was legally constructed at a time when off-street parking was not required (before November 22, 1982), off-street parking shall only be required for the second unit. If feasible, driveway access to required off-street parking shall not eliminate on-street parking spaces. If required driveway access for one off-street space eliminates one on-street parking space; the off-street space shall not be required. **[City Requested MOD]**

18.42.180 - Service Stations

This Section establishes standards for the development and operation of motor vehicle service stations (not including card lock facilities), where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. **Permit and application requirements.** A service station shall require Design Review in compliance with Section 18.71.050, in addition to the planning permit required by Article 2. Each application for a new or remodeled service station shall include a photometric plan identifying all proposed light sources and their illumination levels, to assist in evaluating compliance with the outdoor lighting requirements of Subsection D.5 and Section 18.30.070 (Outdoor Lighting). The City may require an applicant to pay the cost for a lighting consultant engaged by the City to evaluate photometric plans and recommend alternatives to proposed lighting.

B. **Limitations on location.**

1. **Prohibited locations.** A service station site shall not abut a residential zoning district or residential use.

2. **Separation between stations.** A service station shall not be closer than 500 feet to another service station except when both are at the same street intersection. The distance shall be measured in a straight line from the nearest property line of the sites for each service station. No more than two service stations shall be located at the same street intersection.

C. **Site requirements.** A site proposed for a new service station shall:

1. Be located on an arterial street on a site with a minimum of 150 feet of frontage; and

2. Have a minimum area of 15,000 square feet and a minimum depth of 100 feet.

The Commission may grant an exception to this requirement for a service station within a retail complex site if the Commission determines that the exception improves traffic circulation or reduces traffic. Approval of the exception shall also require that the Commission ensure that the service station is effectively integrated into the architecture and design of the overall retail complex.

D. **Site planning standards.** The layout of a service station site and its site features shall comply with the following standards.

1. **Site access and driveways.**

a. Curb cuts for service station driveways shall be separated by a minimum of 30 feet from edge-to-edge.

b. A driveway shall not be located closer than 50 feet to the end of a curb corner nor closer than 25 feet to an interior property line.

c. The width of a driveway shall not exceed 25 feet, measured at the sidewalk.

d. Each pump island shall be provided a stacking area that can accommodate a minimum of three waiting vehicles.

2. **Setback requirements.**

a. Pump islands shall be located a minimum of 15 feet from any property line to the nearest edge of the pump island.

b. A canopy or roof structure over a pump island shall be a minimum of 10 feet from any property line.

3. **Pavement.** A service station site shall be paved with a permanent surface of concrete or asphalt material and shall contain drainage facilities in compliance with all Federal, State, and local laws, rules, and regulations. Any unpaved portion of the site shall be landscaped and separated from the paved area by curbs or other barrier approved as part of the Design Review for the site.

4. **Landscaping.** Landscaping, consisting of trees, ground cover, shrubs, vines, and/or other plant materials approved by the review authority shall be installed, permanently maintained and, if necessary, replaced, in compliance with the following standards, and the requirements of Chapter 18.34 (Landscaping Standards).

   a. A minimum of 15 percent of the entire site shall be landscaped.

   b. Boundary landscaping is required along all property lines abutting streets, except for driveways.

   c. Landscaped areas shall have a minimum width of eight feet, and shall be separated from abutting vehicular areas by a wall or curbing at least six inches higher than the abutting pavement.

   d. A corner site shall be provided a planter area of at least 200 square feet at the street corner, except where a building is located at the corner.

   e. Additional landscaping may be required by the Commission to screen the service station from adjacent properties

   f. All landscaping on the site shall be placed and maintained to provide safe sight distances for pedestrians and drivers.

5. **Lighting.** Exterior lights, including canopy, perimeter, and flood shall be stationary, and shielded or recessed within the roof canopy to ensure that all light is directed away from adjacent properties and public rights-of-way. Lighting shall not be of a high intensity so as to cause a traffic hazard, be used as an advertising element, or adversely affect adjacent properties, in compliance with Section 18.30.070 (Outdoor Lighting). Lighting fixtures/lamps shall be the most energy efficient available, including florescent, compact florescent, low pressure sodium, high pressure sodium, or other lighting technology that is of equal or greater energy efficiency.

6. **Signs and banners.** Signs, banners, and promotional flags shall comply with Chapter 18.38 (Signs).

7. **Solid waste and recyclables storage.** The storage and disposal of solid waste and recyclable materials, including used or discarded motor vehicle parts or equipment, and fluids, shall comply with all applicable Federal, State, and local requirements. Outdoor solid waste and recyclable storage areas shall be screened by a solid masonry wall with a height of six feet, or as approved by the review authority. The wall design, materials, and colors shall be compatible with the primary structures on the site, as determined by the review authority.

E. **Building design standards.** Each new service station shall comply with the following standards.

1. **Architectural character.** Subject to the requirements of Design Review, service station architecture shall fit with the existing or intended character of the surrounding area as determined by the review authority.

2. **Bay orientation.** Service bay openings shall not face a public street.

3. **Restrooms.** Each service station shall maintain one or more restrooms available for use by the general public without charge. Restroom entrances shall be screened from the view of the public right-of-way.

F. **Facility operating standards.**

1. **Restriction on outdoor activities.** Outdoor activities on a service station site shall be limited to fueling, replenishing air, water, oil and similar fluids, and the replacement of minor parts (e.g., lamp bulbs, wiper blades, and other similar items) requiring only the use of small hand tools while a vehicle is being serviced at the pump island. Where minor auto repair is permitted by Article 2, all repair activities shall occur entirely within an enclosed structure.

2. **Display.** There shall be no outdoor display of equipment or merchandise, except as allowed in compliance with Subsection G.1 (Outdoor storage).

3. **Vehicle parking.** Vehicles shall not be parked on sidewalks, parkways, driveways, or alleys, and shall not be parked on the premises for the purpose of sale.

G. **Appurtenant uses.** The following appurtenant uses are prohibited unless specifically allowed as part of Use Permit approval.

1. **Outdoor storage.** One or more outdoor storage and display cabinets or enclosures other than the primary structure may be approved by the review authority, provided that their combined total area shall not exceed 50 square feet. The construction and finish of storage and display cabinets shall be compatible with the primary structures on the site, as determined by the review authority. Outdoor storage and display cabinets may be used only for the display and sale of brake fluid, gasoline additives, oil, transmission fluid, windshield wipers and fluid, and other similar merchandise. The outdoor storage of tires shall be prohibited. No outdoor vending machines are allowed.

2. **Tow truck operations.** Where tow truck operations are approved as part of a service station by the review authority, no abandoned, disabled, junked, wrecked, or otherwise non-operational motor vehicles shall remain on site for more than five days, and shall be stored entirely within an enclosed structure.

3. **Convenience sales - Parking.** Where allowed, the sale of beer and wine, other drinks, food, and/or other merchandise shall be provided off-street parking in compliance with Chapter 18.36 (Parking and Loading).

4. **Prohibited uses.** The following uses are prohibited.

   a. The rental, sale, or storage of garden supplies, tools, trailers, travel trailers, vehicles, and other similar materials and merchandise, except the short term storage of vehicles allowed in compliance with Subsection G. 2. (Tow truck operations), above.

   b. Incidental uses such as pinball or video game machines, pool tables, or laundry facilities.

H. **Removal of tanks upon cessation or change of use.** If, for any reason, a service station ceases to sell gasoline for more than 115 out of 120 days, all gasoline pumps and signs shall be removed from the site and all gasoline storage tanks shall be removed or treated in compliance with Federal and State regulations, subject to the approval of the Fire Department.

18.42.190: Restaurants

The following standards for restaurants are intended to regulate the disposal of grease and oils for the protection of the City of Fort Bragg sewage treatment plant and the environment.

A. Operating standards. Restaurants shall comply with the following operating standards.

1. Installation and maintenance of grease trap/interceptor. Grease interceptor installation and maintenance must comply with the City's Food Service Establishment Wastewater Discharge Permit and the City's Municipal Code section regarding Fats, Oil and Grease Control.

Washing of restaurant floor mats, exhaust filters. Restaurant floor mats and exhaust filters shall be washed in a sink or wash area that drains to the sanitary sewer, or collected wastewater from such washing shall be discharged to the sanitary sewer. [*CITY REQUESTED MOD*]

CHAPTER 18.44 - TELECOMMUNICATIONS FACILITIES

Sections:

18.44.010 - Purpose
18.44.020 - Definitions
18.44.030 - Applicability
18.44.040 - Permit Requirements
18.44.050 - Limitations on Location
18.44.060 - Facility Design and Development Standards
18.44.070 - Operation and Maintenance Standards
18.44.080 - Discontinuance and Site Restoration

18.44.010 - Purpose

This Chapter establishes development standards consistent with Federal law to: regulate the placement and design of communication facilities **by Use Permit and Coastal Development Permit** so as to preserve the unique visual character of the City, promote the aesthetic appearance of the City, and to ensure public safety and welfare; pursue additional benefits from the facilities to the public by encouraging the leasing of publicly owned properties where feasible for the development of communication facilities; and to acknowledge and provide the community benefit associated with the provision of advanced communication services within the City.

18.44.020 - Definitions

The technical terms and phrases used in this Chapter are defined in Article 10 (Glossary) under "Telecommunications Facility."

18.44.030 - Applicability

The location, permit requirements, and other provisions of this Chapter shall apply to all communications facilities **located** within the **coastal zone** ~~City~~. ~~, except the following, which are exempt from this Chapter.~~ **Subsections (A),(B),&(G) of Section 18.44.040 apply to the review and approval of Use Permits only. Subsections (C) & (H) of Section 18.44.040 apply to the review and approval of Coastal Development Permits only. Sections 18.44.050, 18.44.060, 18.44.070, & 18.44.080 apply to the review and approval of Use Permits and Coastal Development Permits.** All communication facilities shall also comply with all applicable requirements of State and Federal law.

~~A. Replacement or modification of previously permitted facilities or equipment determined by the Director to be of a minor nature that does not increase the number or height of antennas or significantly change or enlarge the ancillary related equipment at the site.~~

~~B. An antenna that is one meter (39.37 inches) or less in diameter or diagonal measurement, that is designed:~~

~~1. To receive direct broadcast satellite service, including direct-to-home satellite service, as defined by Section 207 of the Telecommunications Act of 1996, Code of Federal Regulations Title 47, and any interpretive decisions thereof issued by the Federal Communications Commission; or~~

~~2. For subscribing to a multipoint distribution service.~~

~~C. A satellite earth station (SES) antenna of two meters (78.74 inches) or less in diameter or diagonal measurement, located in a commercial or industrial zoning district, that is designed to transmit or receive radio communications by satellite or terrestrial communications antenna. These antennas may require a Building Permit and approval of the~~

~~placement by the Director to ensure maximum safety is maintained. In order to avoid tripping hazards and the creation of an attractive nuisance, these antennas shall be placed whenever possible, on the top of buildings as far from the edge of rooftops as possible.~~ **[moved to 18.44.040(B) below]**

18.44.040 - Permit Requirements

A. **Use Permit or Minor Use Permit.** Use Permit approval is required for all communication facilities subject to this Chapter, except for the following, which shall require Minor Use Permit approval. The Director shall ensure through the Minor Use Permit approval that each of the following facilities complies with all applicable requirements of this Chapter. The Director may also choose to defer action and refer any of the following facilities to the Commission for consideration as a Use Permit application.

1. An antenna that is installed, placed, and maintained under the roofline of an existing structure, or above, behind, and below an existing approved roof screen and does not extend above the highest point of the structure, or is camouflaged within an existing structure so as not to be visible from a public right-of-way or other property.

2. A communication facility in which the antenna is mounted on a mast less than 10 feet high, is not located on an historic structure, and is not visible from a public right-of-way.

3. An amateur and/or citizens band antenna operated by a person holding a license issued by the FCC in compliance with 47 C.F.R. Part 97, and used solely in connection with that license, and which shall be subject to the "minimum practicable regulation to accomplish the local authority's legitimate purpose," in keeping with the order of the FCC known as "PRB-1," FCC 85-506, released September 19, 1985; provided that there shall be no more than one antenna support structure on a single parcel and that the antenna structure complies with the height limits of the applicable zoning district.

B. **Exemptions from Use Permit requirements. The following communication facilities shall be exempt from Use Permit requirements:** ***[MOVED FROM 18.44.030 ABOVE]***

1. Replacement or modification of previously permitted facilities or equipment determined by the Director to be of a minor nature that does not increase the number or height of antennas or significantly change or enlarge the ancillary related equipment at the site.

2. An antenna that is one meter (39.37 inches) or less in diameter or diagonal measurement, that is designed:

a. To receive direct broadcast satellite service, including direct-to-home satellite service, as defined by Section 207 of the Telecommunications Act of 1996, Code of Federal Regulations Title 47, and any interpretive decisions thereof issued by the Federal Communications Commission; or

b. For subscribing to a multipoint distribution service.

3. A satellite earth station (SES) antenna of two meters (78.74 inches) or less in diameter or diagonal measurement, located in a commercial or industrial zoning district, that is designed to transmit or receive radio communications by satellite or terrestrial communications antenna. These antennas may require a Building Permit and approval of the placement by the Director to ensure maximum safety is maintained. In order to avoid tripping hazards and the creation of an attractive nuisance, these antennas shall be placed whenever possible, on the top of buildings as far from the edge of rooftops as possible.

C. **Coastal Development Permit. Unless preempted by federal law, a Coastal Development Permit is required for all communication facilities that constitute development as defined in Article 10 of this Development Code and are not otherwise exempt from CDP requirements pursuant to Section 30610 of the Coastal Act and Section 18.71.040 of this Development Code.**

~~B.~~D. **Application requirements.** In addition to the information required for Use Permit or Minor Use Permit application by Chapter 18.70 (Permit Application Filing and Initial Processing) **and information required for a Coastal Development Permit application by Chapter 18.71.040(D),** the **Use Permit, Minor Use Permit, or Coastal Development Permit** application for a communication facility shall include:

1. **Consistent with all limitations imposed by Federal law, c**~~C~~ertification **by a licensed engineer that is** acceptable to the Director that the proposed facility will at all times **meet standards set by the Federal Communication Commission (FCC) and** comply with all applicable health requirements and standards pertaining to electromagnetic and/or radio frequency radiation ~~and~~

2. A report, as required by the Police Department, to evaluate the potential for interference (e.g., HF, UHF, VHF, 800 mHz). The applicant shall be responsible for paying any costs incurred by the City, including the costs of retaining consultants, to review and analyze the report.

3. A visual impact analysis: The applicant shall submit a visual impact analysis, which may include photomontage, field mock-up, or other techniques, which demonstrates the visual impacts of the proposed facility. Consideration shall be given to views from public areas. The analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable telecommunication facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed telecommunication service. The analysis shall also consider the potential of future utility undergrounding construction. All costs for the visual analysis, and applicable administrative costs, shall be borne by the applicant.

4. A Master Plan of all existing facilities and planned future facilities within the City. The Master Plan shall consist of the following components:

· A written description of the type of technology each company/carrier will provide to its customers over the next five years (i.e. Cellular, PCS, etc) and a description of consumer services to be offered (i.e. voice, video and data transmission)
· A description of the radio frequencies to be used for each technology.
· A map of the City showing the five year plan cell sites and planned coverage;
· A written list of existing, proposed and anticipated cell sites of the service provider over a five year period;
· A description of the location of the cells and the types of installations, including antennas and equipment.

5. A radius map and a certified list of the names and addresses of all property owners within five hundred feet (500') of the exterior boundaries of the property involved, as shown on the latest assessment roll of the county assessor.

6. A plot plan of the lot, right-of-way, premises or parcel of land, showing the exact location of the proposed facility (including all related equipment and cables), exact location and dimensions of all buildings, parking lots, walkways, trash enclosures, and property lines.

7. Co-location/Height Justification: The applicant must provide justification as to why the proposed height is necessary and why co-location on an existing site is not feasible or desirable (if applicable)

8. Building elevations and roof plan (for building and/or rooftop-mounted facilities) indicating exact location and dimensions of equipment proposed. For freestanding facilities, indicate surrounding grades, structures, and landscaping from all sides.

9. Proposed landscaping and/or non-vegetative screening (including required safety fencing) plan for all aspects of the facility.

10. Licenses: Documentation certifying the applicant has obtained all applicable licenses or other approvals

required by the Federal Communication Commission to provide the services proposed in connection with the application.

~~C~~ E. **Master Use Permit.** A service provider who intends to establish multiple wireless Telecommunications Facilities within the City is encouraged to apply for the approval of all facilities under a Master Use Permit. Under this approach, all proposed facilities **requiring a Use Permit** may be acted upon by the City as a single **Use Permit** application, ensuring feasibility of long range company projections.

~~D.~~F. **Communications consultant may be required.** In the event that the City needs assistance in understanding the technical aspects of a particular proposal, the services of a communications consultant may be requested to determine the engineering or screening requirements of establishing a specific wireless communications facility. This service will be provided at the applicant's expense.

~~E.~~G. **Required findings for Use Permit approval.** The approval of a Use Permit or Minor Use Permit for a communication facility shall require that the review authority first make the following findings, in addition to those required for Use Permit approval by Section 18.71.060 (Use Permit and Minor Use Permit):

1. The communication facility complies with all applicable requirements of this Chapter; and

2. The communication facility will not adversely impact the character and aesthetics of any public right-of-way.

H. Required findings for Coastal Development Permit approval.

1. **The approval of a Coastal Development Permit for a communication facility shall require that the review authority find that the communication facility complies with Section 18.71.040 (Coastal Development Permit) and that the communication facility complies with all requirements of this Chapter applicable to coastal development permits identified in Section 18.44.030.**

2. **The proposed communication facility shall comply with Sections 18.71.040(F) and Section 18.44.030 only to the extent necessary to find the development consistent with the policies of the certified LCP and consistent with the limitations imposed by Federal law.**

3. **Any decision to deny a permit for a communication facility shall be in writing and shall be supported by substantial evidence and shall specifically identify the reasons for the decision and the evidence that led to the decision.**

18.44.050 - Limitations on Location

A. **Zoning district priorities.** A communication facility shall be not be approved or located within **zoning districts** other than the PF (Public Facility) zoning district; except that the review authority may approve a facility within a commercial or industrial district if it first determines that the applicant has demonstrated that all PF zoning district options are infeasible, and that there is no site within a PF district where the communication facility would provide adequate coverage.

B. **Co-location required.** A new communication facility shall be co-located with existing facilities and with other planned new facilities whenever feasible, and whenever determined by the review authority to be aesthetically desirable. A service provider shall co-locate a new communication facility with non-communications facilities (e.g., light standards, water tanks, and other utility structures) where the review authority determines that this collocation will minimize the overall visual impact.

1. A service provider shall exhaust all reasonable measures to co-locate their communications facilities on existing towers or with or within existing ancillary support equipment facilities before applying for a new communication facility site.

2. Each service provider shall provide the City with evidence that they have contacted all other potential providers who have, or who are reasonably likely to be installing facilities within the vicinity of the proposed facility and have offered to participate in a joint installation project on reasonable terms.

3. In order to facilitate collocation, Use Permit **and Coastal Development Permit** conditions of approval for a new facility shall require each service provider to cooperate in the siting of equipment and antennas to accommodate the maximum number of operators at a given site where determined by the review authority to be feasible and aesthetically desirable.

C. **City-owned property.** **Consistent with all limitations imposed by Federal law, a** A communication facility shall not adversely affect the public health, peace, safety or welfare. In order to best benefit the citizens of Fort Bragg from this necessary community impact, the Commission shall always consider City-owned sites as the highest priority for the location of communication facilities.

18.44.060 - Facility Design and Development Standards

Each proposed communication facility shall comply with the following standards: ~~except that any standard may be modified or waived by the review authority upon a determination that effective signal reception and transmission will not occur if the facility complies with these standards.~~

A. **Facility placement.**

1. **Standards for all facilities.**

a. A roof-mounted antenna on a structure that complies with applicable height limits shall be set back from the nearest roof edge the equivalent of the height of the tower or a minimum of 10 feet, whichever is greater.

b. A ground-mounted communication facility (including towers and antennas) shall be located as far as possible from all property boundaries, and set back from the property line at a ratio of 1.5 horizontal feet for every one foot of height, where feasible **unless a location closer to property boundaries reduces visual impacts as viewed from public vantage points**.

c. A tower or antenna shall be set back from any site boundary or public right-of-way by a minimum of 25 feet. No part of any tower shall extend into a required front setback or beyond a property line of the site.

d. Communication facilities other than towers and antennas shall be located either within a structure, underground, in a rear yard (not visible from a public right-of-way) or on a screened roof top area. A ground-mounted facility that is located within a front or side setback or within a public right-of-way shall be underground so that the facility will not detract from the image or appearance of the City.

2. **Facilities within ~~commercial and~~ industrial districts.** Within an industrial zoning district, a minimum distance of 500 feet shall be provided between towers, and there shall be no more than two towers on a single Assessor's parcel or developed site, unless the towers are located on a public facility as described in A.1, above.

B. **Height limitations.**

1. All ground mounted communication equipment, antennas, poles, or towers shall be of a minimum functional height.

2. The height of a tower located on the ground shall not exceed 60 feet in the PF zoning district and 40 feet in a commercial or industrial zoning district. **Except in areas located between the first public road and the sea, or within an area mapped as a Scenic View area on Map LC-3 of the General Plan,** the review authority

may grant an exception to allow towers of up to 80 feet where the review authority determines that the increased height is necessary for adequate coverage, and the tower will co-locate service providers.

3. The height of a communications facility located on a structure other than a dedicated support tower shall not exceed 20 feet above the highest point of the structure and shall at no time exceed the height allowed by the subject zoning district.

4. An antenna mounted on the side of a structure shall not extend above the structure's parapet so that it is visible from below against the sky.

C. **Colors and materials.** All antennas, poles, towers, or equipment, including ancillary support equipment, shall have a non-reflective finish and shall be painted or otherwise treated to match or blend with the primary background and minimize visual impacts. Antennas attached to a structure shall be painted or otherwise treated to match the exterior of the structure or the antenna's background color. All ground-mounted equipment shall be covered with a clear anti-graffiti type material of a type approved by the Director or shall be adequately secured to prevent graffiti.

D. **Screening, landscaping.** All ground mounted equipment, antennas, poles, or towers shall be sited to be screened by existing development, topography, or vegetation. Ground mounted facilities shall be located within structures, underground, or in areas where substantial screening by existing structures or vegetation can be achieved. Additional new vegetation or other screening may be required by the Director or by the Commission. The applicant shall use the smallest and least visible antennas possible to accomplish the owner/operator's coverage objectives.

E. **Additional screening and landscaping.** As part of project review, the Director, the Commission, or the Council (on appeal) may require additional screening and/or landscaping, undergrounding, an alternative color scheme, or relocation of a tower or ancillary equipment to a less obtrusive area of the site where it would have a less prominent visual presence due to slope, topography, size, or relationship to public right-of-ways.

F. **Power lines.** All power lines to and within a communication facility site shall be underground.

G. **Backup power supplies.** A backup power supply (i.e., generator) located in an industrial zoning district shall be enclosed within a structure and operated in compliance with Section 18.44.060.D (Screening). In any zoning district, ancillary power supplies and fuel storage tanks to support backup power supplies shall require Use Permit approval.

H. All building and roof-mounted wireless telecommunications facilities and antennae shall be designed to appear as an integral part of the structure where feasible and located to minimize visual impacts.

I. The placement of new antennae and facilities shall not be physically obstructive or visually intrusive and shall be designed to be visually compatible with the character of the surrounding area.

18.44.070 - Operation and Maintenance Standards

A. **Contact and site information.** The owner or operator of any facility shall submit and maintain current at all times basic contact and site information. The applicant shall notify the City of any changes to the information submitted within 30 days of any change, including change of the name or legal status of the owner or operator. This information shall include the following:

1. Identity, including name, address, and telephone number, and legal status of the owner of the facility including official identification numbers and FCC certification, and if different from the owner, the identity and legal status of the person or entity responsible for operating the facility;

2. Name, address, and telephone number of a local contact person for emergencies;

3. Type of service provided; and

4. Identification signs, including emergency phone numbers of the utility provider, shall be posted at all communication facility sites.

B. **Facility maintenance.** All communication facilities and related equipment, including lighting, fences, shields, cabinets, and poles shall be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism, and any damage from any cause shall be repaired as soon as reasonably possible so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed by the service provider from any facility or equipment as soon as practicable, and in no instances more than 48 hours from the time of notification by the City.

C. **Landscaping maintenance.** All trees, foliage, and other landscaping elements on a communication facility site, whether or not used as screening, shall be maintained in good condition at all times in compliance with the approved landscape plan. The facility owner or operator shall be responsible for replacing any damaged, dead, or decayed landscaping as promptly as reasonably possible. Amendments or modifications to the landscape plan shall require approval by the Director. The Commission may also require a landscape maintenance agreement.

D. **Noise.** Each communication facility shall be operated so as to minimize the generation of noise that is audible from off the site. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 10:00 p.m. and 7:00 a.m. At no time shall equipment noise from any source exceed an exterior noise level of 60 dB at the property line.

E. **Site inspection required.** Each owner or operator of a facility shall routinely and regularly inspect each site to ensure compliance with the standards identified in this Chapter.

F. **Exterior lighting.** **Lighting of antenna structures and their electrical support equipment is prohibited, except as required by any order or regulation of the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).** ~~Any exterior lighting shall be manually operated and used only during night maintenance or emergencies, unless otherwise required by applicable Federal law or FCC rules.~~ The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Light fixtures shall be low wattage, hooded, and downward directed.

18.44.080 - Discontinuance and Site Restoration

All equipment associated with a communication facility shall be removed within 30 days of the discontinuance of the use and the site shall be restored to its original pre-construction condition, subject to the approval of the Director. The service provider shall provide the City with a notice of intent to vacate a site a minimum of 30 days before site vacation. This removal requirement, and appropriate bonding requirements, shall be included in the terms of a lease for a facility on public property. A private lease for a facility located on private property is encouraged to include terms for equipment removal, since the property owner shall be ultimately responsible for removal of the equipment.

18.42.190: Restaurants

The following standards for restaurants are intended to regulate the disposal of grease and oils for the protection of the City of Fort Bragg sewage treatment plant and the environment.

B. **Operating standards. Restaurants shall comply with the following operating standards.**

1. **Installation and maintenance of grease trap/interceptor. Grease interceptor installation and maintenance must comply with the City's Food Service Establishment Wastewater Discharge Permit and the City's Municipal Code section regarding Fats, Oil and Grease Control.**

Washing of restaurant floor mats, exhaust filters. Restaurant floor mats and exhaust filters shall be washed in a sink or wash area that drains to the sanitary sewer, or collected wastewater from such washing shall be discharged to the sanitary sewer. [*CITY REQUESTED MOD*]

Article 5
Resource Management

ARTICLE 5

Resource Management

[NOTE: Page numbers do not correspond to page numbers of Exhibit No. 2]

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CHAPTER 18.50 – ~~COASTAL~~ LAND AND MARINE RESOURCE PROTECTION

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18.50.010 - Purpose

This Chapter provides standards for proposed development and new land uses to ensure the protection of sensitive coastal resources, to implement applicable provisions of the General Plan and Local Coastal Plan, and comply with the Coastal Act. Article 6 (Site Development Regulations) provides requirements, standards, and procedures for grading, erosion and sediment control, and urban runoff pollution control which also help to ensure protection of coastal resources.

18.50.020 - Applicability

The provisions of this Chapter apply to all development and proposed land uses located within the Coastal Zone. ~~Certain Sections of this Chapter also apply outside of the Coastal Zone, where noted.~~

18.50.030 - Archaeological Resource Preservation

A. **Purpose.** The requirements of this Section are intended to ensure that appropriate safeguards are established and followed in order to protect archaeological and paleontological resources whose potential location is identified, or which are actually discovered as a result of development activity within the City.

B. **Applicability.** **This Chapter shall apply to the review and approval of coastal development permits, grading permits, and building permits for all development located within areas known to contain, or potentially containing, archaeological and paleontological resources including as follows:** ~~Before commencing any digging, grading, or any other activity in advance of construction of an approved development project within the following areas, an archeological and paleontological resource review shall clarify that duplicate studies will not be required in compliance with this Chapter. Historic structures are instead subject to the requirements of Chapter 18.74 (Cultural Resource Preservation). Note: duplicate surveys are not required if an existing survey is on file at City Hall and/or the California Historic Information Resources Center at Sonoma State University.~~

1. **Former Georgia Pacific timber mill.** The entire property which comprises the former Georgia-Pacific timber mill site;

2. **Noyo Bay.** The area located along the south side of Noyo Bay (e.g., Todd Point);

3. **Noyo River.** All of the areas located adjacent to the north side of the Noyo River;

4. **North Fort Bragg Coast.** All of the areas located west of Highway 1 and north of Pudding Creek;

5. **Special Review Areas.** All Special Review Areas identified on Map LC-2 in the Coastal **General Plan** ~~Element; (Program LC-3.1.1)~~ and

6. **Other areas identified by the Director.** Other areas identified by the environmental review process (Chapter 18.72), or brought to the attention of the City through special studies performed after the enactment of this Section, as having the potential for containing archaeological or paleontological resources.

1. **Report required.** **A report shall be prepared by a qualified archaeologist and shall be submitted prior to filing as complete an application for a coastal development permit, grading permit, building permit, or** ~~Where development proposals are for an area in which there are known archaeological or paleontological resources on the site or in the vicinity, and for which the Director determines no adequate prior assessment of on-site resources has been completed, a report shall be prepared by a qualified archaeologist before the issuance of a Coastal Development Permit in compliance with Section 18.71.040, or~~ other discretionary permit approval.

a. The report shall include a search of existing archaeological records including, but not limited to, those contained at the California Historic Resource Information Center at Sonoma State University.

b. The report shall include a field survey to identify and evaluate all archaeological and paleontological resources in the areas of the site proposed to be disturbed by the project;

~~a.~~**c.** At a minimum, the report shall identify and evaluate all archaeological and paleontological resources in the areas of the site proposed to be disturbed by the project, assess the effects of the proposed development on those resources, **evaluate alternatives to determine if the development can be feasibly located and/or designed to avoid archaeological and paleontological resources,** and recommend appropriate resource preservation and/or mitigation measures to adequately address the identified effects.

~~b.~~**d.** If cultural resources are identified, a copy of the report shall also be transmitted to the State Historical Preservation Officer and the California Historic Resources Information System for review and comment.

The Director may waive the requirement for a report if the Director determines that an existing report satisfies ~~this~~ **the** requirement**s of this section**.

2. **Mitigation measures required.**

a. Where proposed development activity will adversely affect archaeological or paleontological resources, the City shall require reasonable and necessary mitigation measures.

b. Mitigation shall be designed in compliance with the guidelines of the State Office of Historic Preservation and the State Native American Heritage Commission.

D. **Discovery of resources.** ~~All development activity within the City shall comply with the following requirements.~~ **If there is the potential that prehistoric traces such as human remains, artifacts, or concentrations of shell, bone, or ash may be encountered during development activity, the City shall require the following actions be taken as a condition of any permit approval:**

1. When, in the course of digging, grading, or any other activity ~~in advance of~~ **associated with** construction of an approved development project, evidence of archaeological, paleontological, or potentially significant historic resources is discovered, all ~~work which could potentially damage or destroy the resources~~ **development shall cease immediately and shall not recommence except as provided in subsection (6) hereof.**

2. The Director **and a qualified archaeologist** shall be notified immediately of the discovery.

3. The Director shall notify the State Historic Preservation Officer and the California Historical Resources Information System at Sonoma State University of the discovery.

4. ~~At the request of the State Historic Preservation Officer, development of the site shall be halted until an archaeological assessment of the site can be made and appropriate mitigation measures developed.~~

4. If human remains are encountered, the county coroner and the Mendocino County Archaeological Commission shall be contacted immediately. If the county coroner or archaeological commission officials determine that the remains are those of a Native American, local representative Native American organizations shall be consulted as to courses of action.

5. Prompt evaluation of the importance of the find shall be made and the proper course of action, acceptable to all parties concerned, shall be adopted.

6. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a supplementary archaeological plan for the review and approval of the permit review authority.

   (i) If the permit review authority approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the permit review authority.

   (ii) If the permit review authority approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to the permit is approved by the reviewing authority.

   (iii) The applicant shall undertake development in accordance with the approved supplemental Archaeological Plan.

E. Monitoring. New development on sites identified as archaeologically sensitive shall include on-site monitoring of all grading, excavation and site preparation that involve earth moving operations by a qualified archaeologist(s) and appropriate Native American consultant(s).

18.50.040 - Diking, Filling, and Dredging

[MOD: Delete Chapter 18.50.040. Section C is replaced by Chapter 18.50.050(E)(1), Sections D(1) and F are modified and moved to Chapter 18.50.050 (ESHA), Section D(2) is replaced by Chapter 18.58.040, and Section E is moved to Chapter 18.58.]

~~**18.50.040 - Diking, Filling, and Dredging**~~

~~A. **Purpose.** The provisions of this Section are intended to limit the diking, filling, or dredging of open coastal waters, wetlands, and estuaries to the extent allowed by the Coastal Act.~~

~~B. **Work in environmentally sensitive habitats.** Any diking, filling, or dredging activity in an environmentally sensitive habitat or wetland shall comply with the requirements of Section 18.50.050 (Environmentally Sensitive Habitat Areas), and Chapter 18.58 (Wetland Protection and Restoration), as applicable.~~

~~C. **Limitation on purposes of diking, filling, and dredging.** Diking, filling, or dredging shall not be allowed, except to accomplish the following purposes.~~

~~1. Providing new or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.~~

~~2. Maintaining existing or restoring previously dredged depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.~~

~~3. In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland identified by the Department of Fish and Game in compliance with Coastal Act Section 30411(d), for boating facilities, if in conjunction with the boating facilities a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland; provided, that in no event shall the size of the wetland area used for the boating facility, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, be greater than 25 percent of the total wetland area to be restored.~~

~~4. In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities.~~

~~5. Incidental public service purposes, including but not limited to burying cables and pipes or inspection of piers and maintenance of existing intake and outfall pipes.~~

~~6. Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.~~

~~7. Restoration.~~

~~8. Nature study, aquaculture, or similar resource dependent activities.~~

~~D. **Development standards.**~~

~~1. **Dredging.** When consistent with the provisions of this Section, and where necessary to maintain tidal flow and the continued viability of wetland habitat, or for flood control purposes, dredging shall comply with the following requirements.~~

~~a. Dredging shall be prohibited in breeding and nursery areas and during periods of fish migration and spawning.~~

~~b. Dredging shall be limited to the smallest areas feasible.~~

~~c. Designs for dredging and excavation projects shall include protective measures such as silt curtains, diapers, and weirs to protect water quality in adjacent areas during construction by preventing the discharge of refuse, petroleum spills, and unnecessary dispersal of silt materials.~~

~~2. **Diking or Filling.** Diking, or the filling of a wetland shall, at a minimum, require the following mitigation measures, in addition to compliance with the requirements of Chapter 18.58 (Wetland Protection and Restoration).~~

~~a. Equivalent areas shall be opened to tidal action, or provided for other sources of surface water. This applies to diked or filled areas which themselves are not environmentally sensitive habitat areas, but would become so if the were opened to tidal action or provided with other sources of surface water.~~

~~b. Wherever feasible, mitigation by restoration of wetlands or opening of lands to tidal action shall be the same type of wetlands as those filled (e.g., freshwater for freshwater).~~

~~E. **Findings required for approval.** The approval of diking, filling, or dredging shall require that the review authority first find that the functional capacity of the resource area will be maintained or enhanced after diking, filling or dredging of a wetland or estuary. Functional capacity means the ability of the wetland or estuary to be self-sustaining and to maintain natural species diversity. In order to establish that the functional capacity is being maintained, the applicant shall demonstrate and the review authority shall find that:~~

~~1. Presently occurring plant and animal populations in the ecosystem will not be altered in a manner that would impair the long-term stability of the ecosystem; i.e., natural species diversity, abundance and composition are essentially unchanged as a result of the project; and~~

~~2. A species or habitat that is rare or endangered will not be harmed; and~~

~~3. A species or habitat essential to the natural biological functioning of the wetland or estuary will not be harmed; and~~

~~4. Consumptive (e.g., fishing, aquaculture and hunting) or nonconsumptive (e.g., water quality and research opportunity) values of the wetland or estuarine ecosystem will not be significantly reduced.~~

~~F. **Specific location requirements.** There shall be no disposal of fill or dredging spoils off-site within the Coastal Zone except the existing dredge spoils site located near the mouth of the Noyo Harbor, which will be used for maintenance dredging of the harbor. These activities shall be compatible with proposed public access or designated commercial or recreational boating traffic, and uses shall not interfere with the existing spoils disposal operation.~~

18.50.050 - Environmentally Sensitive Habitat Areas

This Section provides requirements for the protection and enhancement of environmentally sensitive habitat areas (ESHAs), when development is proposed adjacent to, or within **environmentally sensitive** habitat areas. ~~See also Chapter 18.52 (Creek and Riparian Resource Protection)~~

A. **Applicability.** The provisions of this Section apply to **the review of coastal development permits for** all development proposed on sites that include, are immediately adjacent to, or are within an ESHA **defined as any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments** ~~identified by the Coastal Element, and Conservation, Open Space and Parks Element of the General Plan~~. **In addition to compliance with this Section, all development within or adjacent to Wetland ESHA shall comply with Chapter 18.58. In addition to compliance with this Section, all development within or adjacent to River and Stream or Riparian ESHA shall comply with Chapter 18.52.**

B. **Biological resources report.** A planning permit application for development on a site that is subject to this Section shall include a biological resources report that complies with the following requirements. **Biological reports required by this Section shall be submitted prior to filing as complete a coastal development permit application.**

1. **Qualifications of preparer.** The report shall be prepared by individuals approved by the City with demonstrated education, training, or experience to prepare these plans in a professional and competent manner. Acceptance of additional experts may be authorized by the ~~Director~~ **permit review authority** upon receipt of a resume demonstrating an individual's special capabilities. The ~~Director~~ **permit review authority** decision to accept or deny a consulting biologist shall be final.

2. **Report contents for all ESHA.** A biological resources report shall **include, but not be limited to**:

   a. A study identifying biological resources existing on the site;

   b. An identification of "fully protected" species and/or "species of special concern," and an identification of any other species of rarity, including plants designated "1B" or "2" by the California Native Plant Society, that are present or have the potential to occur on the project site;

   c. Photographs of the site;

   d. A discussion of the physical characteristics of the site including, but not limited to, topography, soil types, microclimate, and migration corridors;

   e. A site map depicting the location of biological resources;

   f. An analysis of the potential impacts of the proposed development on the identified habitat or species;

   g. An analysis of any unauthorized development, including grading or vegetation removal that may have contributed to the degradation or elimination of habitat area or species that would otherwise be present on the site in a healthy condition;

   h. Project alternatives designed to avoid and minimize impacts to identified habitat or species;

   j. A buffer width analysis consistent with the requirements of Section 18.50.050(F) where an ESHA buffer less than 100 feet is proposed.

   a**j. An evaluation of** ~~Evaluate~~ the impact the development may have on the habitat, and whether the development will be consistent with the biological continuance of the habitat. The report shall identify the maximum feasible mitigation measures to protect the resource and a program for monitoring and evaluating the

effectiveness of the mitigation measures. Proposed mitigation measures shall meet the following standards:

i) They are specific, implementable, and, wherever feasible, quantifiable;
ii)They result in the maximum feasible protection, habitat restoration and enhancement of sensitive environmental resources. Habitat restoration and enhancement shall be required wherever feasible, in addition to the applicable baseline standard of either avoiding or minimizing significant habitat disruption;
iii)They are incorporated into a Mitigation Monitoring Program; and
iv)They include substantial information and analysis to support a finding that there is no feasible, less environmentally damaging alternative.

~~b~~k. An analysis of ~~Identify~~ potential significant impacts on the habitat from noise, sediment, and other potential disturbances that may occur during project construction.

~~c. Verify that the setbacks from habitat areas required by this Section will be adequate to protect the habitat or recommend, where applicable, more effective setbacks~~

~~d~~l. Recommendations for conditions of approval for habitat maintenance, and the restoration of damaged habitats, where feasible.

3. Wetland Delineation Report for Wetland ESHA.

a. Where the biological study required by Section 18.50.050(B) above indicates the presence or potential for wetland species or indicators, the applicant shall additionally submit a delineation of all wetland areas on the project site.

b. Wetland delineations shall be conducted according to the definitions of wetland boundaries contained in Section 13577(b) of the California Code of Regulations. A preponderance of hydric soils or a preponderance of wetland indicator species shall be considered presumptive evidence of wetland conditions. The delineation report shall include at a minimum a (1) a map at a scale of 1":200' or larger with polygons delineating all wetland areas, polygons delineating all areas of vegetation with a preponderance of wetland indicator species, and the location of sampling points, and (2) a description of the surface indicators used for delineating the wetland polygons. Paired sample points will be placed inside and outside of vegetation polygons and wetland polygons identified by the biologist doing the delineation.

c. Information required by Chapter 18.58.050(B).

4. Evaluation of Proposed Development in Wetland ESHA. Applications for development projects affecting wetland resources shall include the following additional information:

[*MOVED FROM LUP APPENDIX C*]

a. A comprehensive project description.

b. A description of wetland habitat type(s) and the approximate area each habitat covers using the classification procedures described in Procedural Guidelines for the Evaluating Wetland Mitigation Projects in California's Coastal Zone.

c. Detailed topographic base map(s) of the site with information taken from recent (1 to 2 year old) aerial photographs. If only older aerial photographs are available, the site information must be updated from field visits.

The map should indicate 0.5 to 1.0 foot contours, the specific datum reference used (either mean sea level or mean lower low water), and show the applicant's property boundaries and adjacent property boundaries (including parcel lines of any tidelines, submerged lands, or public trust lands). All parcels should be identified by their assessor parcel numbers.

d. A detailed hydrologic map. For tidal wetlands the map should show areas inundated at high and low tides, along with estimates of the effective tidal range and tidal lag. For non-tidal wetlands the map should show the permanent or seasonal water patterns of inundation (including sources) in years of low, average, and high rainfall.

e. A detailed vegetation map. This map should identify the type, location, and percent of coverage of all plant species.

f. A detailed soils map. This map should identify the type and location of all soils and include a description of the soil types.

g. A detailed site map. This map should show the location and size of the proposed development, including dikes, culverts, or tide gates.

h. A grading plan. This plan should show the extent and quantity of filling and/or dredging, the type and source of fill and/or dredge material including determinations of grain size and tests for possible pollutants, and the location of any proposed dredge disposal site.

i. History of the site, if available, including:

i) Collection of older aerial photographs and maps. These historic photographs and maps should be used to establish, if possible, the previous natural state of the wetland prior to any artificial modification.

ii) Collection and summary of all available studies of the wetland site. This should include land use studies, environmental documents, and scientific reports. Existing land use policies and any approved plans for the site should also be included.

j. A complete description and analysis of existing ecological conditions at the project site, including:

i) A discussion of the ecological value of the plants and animals using the wetland and adjacent areas.

ii) A discussion of the wetlands present functions and values.

iii) An evaluation of potential and existing impacts including the effects of sedimentation and pollutants from residential, industrial, agricultural, and flood control activities to the wetland and associated watershed.

k. An analysis and discussion of project impacts and proposed mitigation, including an analysis of whether the project and proposed mitigation maintains and enhances the functional capacity of the wetland. Functional capacity means the ability of the wetland or estuary to be self-sustaining and to maintain natural species diversity. In order to establish that the functional capacity is maintained, the applicant must demonstrate all of the following:

i) That the project will not alter presently occurring plant and animal populations in the ecosystem in a manner that would impair the long-term stability of the ecosystems, that is, that the natural species diversity, abundance, and composition are essentially unchanged as a result of the project.

ii) That the project will not significantly reduce consumptive (e.g., fishing and hunting) or non-consumptive (e.g., water quality and bird watching) values of the wetland or estuary.

I. An alternatives analysis that, at a minimum, includes the following review of all feasible alternatives:

i) Consideration of alternative sites, including sites which are completely outside the wetland.

ii) Reconfiguration of the project, including a reduction in project size, density, or coverage.

iii) Identification of the wetland impacts of each alternative, including a determination of the amount of habitat lost and an analysis of the impacts to the functional capacity of the system.

iv) Selection of the least damaging feasible alternative.

[MOVED FROM LUP APPENDIX A]

C. Application Requirements -Mitigation Monitoring Program. When wetlands cannot be avoided and there is a potential loss of existing wetland habitat or value, a Mitigation Monitoring Program must be submitted with the Use Permit and coastal development permit application that, when implemented, will result in the replacement of all lost wetland functions and provide a net gain in wetland acreage. A mitigation plan can take several forms, although restoration is the most common form submitted to the City. The City shall administer the Mitigation Monitoring Program; preparation and administration of the plan shall be paid for by the project applicant. A bond or other method acceptable to the City shall be established to guarantee successful completion of the mitigation project. The Mitigation Monitoring Program shall, at a minimum:

1. Establish clearly stated goals and objectives that provide for the establishment of functions and values at least equal to those occurring at the impact site. The stated goals and objectives should also be consistent with established regional habitat goals where possible. These regional goals must identify functions and/or habitats most in need of replacement or restoration and must be as specific as possible. A schedule to complete the restoration program shall be included.

2. Provide adequate baseline data regarding the biological, physical, and chemical criteria for the restoration area. For a restoration plan to be deemed acceptable, it must include evidence or other conclusive information that:

a) The site can be purchased prior to commencement of the development project and dedicated to a public agency or otherwise permanently restricted in use to "open space."

b) The site is located in an area no longer functioning in a manner beneficial to wetland species, such as a formerly productive wetland or estuary that is now biologically unproductive dry land.

c) The site can be restored to "equal or greater biological productivity" (Coastal Act Section 30607.1) than the area lost, with the same type and variety of plant and animal species. That is, the mitigation wetland would replace the functions and values existing at the impacted wetland.

d) The site is located in the same region (e.g., within the same water body or watershed) as the wetland impacted through development.

3. Provide documentation that the project will continue to function as a viable restored wetland site over the long-term.

4. Provide sufficient technical detail on the restoration design. This should include, at a minimum, an engineered grading plan and water control structures, methods for conserving or stockpiling topsoil, a

planting program including removal of exotic species, a list of all species to be planted, sources of seeds and/or plants, timing of planting, plant locations and elevations on the restoration base map, and maintenance techniques.

5. Require independent monitoring of the site at least five years after completion of the mitigation project. The intent is to continue monitoring until the project has successfully met the stated goals and objectives. For larger projects where new wetlands are created, extended monitoring will be required.

6. Require repetitive surveys for plants and animals (including species of special concern) throughout the various habitats of the mitigation area. The surveys should use techniques that permit a determination of species composition and abundance. Both terrestrial and aquatic organisms should be surveyed, as appropriate. Timing of the surveys should be considered, since the abundance of many plant and animal species often varies with season. Surveys sufficient to characterize the mitigation site should also be completed prior to any enhancement or restoration activities.

7. Monitor hydrology. For tidal wetlands include a determination of the areas inundated at high and low tide, tidal prism, and water velocity. For non-tidal wetlands, include determination of permanent and seasonal patterns of inundation and water sources.

8. Monitor water quality. Carry out repetitive sampling, as appropriate, of various chemical and physical constituents such as salinity, pH, nutrient concentration, dissolved oxygen, temperature, and turbidity throughout the year. The sampling pattern may vary throughout the year and may include more intensive sampling over several tidal cycles to determine short-term salinity patterns.

9. Monitor soil chemistry to document trends in soil salinity in tidal wetlands. Monitoring may include measurements of other constituents, as required.

10. Establish procedures for the ongoing identification and correction of problems as they arise. Such problems may be related to the physical, chemical, or biological attributes of the mitigation site, or difficulties in meeting enhancement or restoration objectives and timelines. These procedures should include specific remedies in case the mitigation project does not meet the designated goals.

11. Provide timely analysis and production of annual reports. These reports will be distributed to the City, the California Coastal Commission and other interested parties. The final monitoring report, submitted upon completion of the monitoring program, should analyze all monitoring data and present different management options.

~~C~~D. General development standards.

1. **Performance standards.** All development adjacent to or within an ESHA shall comply with the following requirements:~~, to the maximum extent feasible.~~

   a. New development shall be designed, sited, constructed, and maintained so as to not significantly disrupt the resource.

   ~~b. New development within an ESHA shall be limited to uses that are dependent upon the resource.~~

   ~~c~~b. Where feasible, damaged habitats shall be restored as a condition of development approval.

   ~~d~~c. Development shall be consistent with the biological continuance of the ESHA.

2. **Vegetation removal.** Existing native vegetation shall not be removed within an ESHA or an ESHA buffer except for: (1) ~~unless~~ vegetation removal authorized through coastal permit approval to accommodate ~~approved~~ permissible development ~~construction~~, (2) removal of trees for disease control, (3) public safety

purposes to abate a nuisance consistent with Coastal Act Section 30005, or (4) removal of firewood for the personal use of the property owner at his or her residence to the extent that such removal does not constitute development pursuant to Coastal Act Section 30106.

~~Limited vegetation removal to reduce fire and other hazards may be approved by the Director without a Coastal Permit.~~ After construction, ~~unpaved~~ **disturbed, undeveloped** areas shall be replanted to provide for the reestablishment of a 100 percent vegetation cover within two years. At five years, the site should support the same habitat removed. **Native, non-invasive p**~~P~~lant species that would provide bank stability and habitat enhancement ~~should~~ **shall** be used ~~where applicable~~. Remedial actions (e.g., planting of native species and removal of invasive horticultural species) ~~should~~ **shall** be implemented as necessary to ensure that the site will consist of at least 75 percent native species at the end of five years.

3. **Landscaping.** A landscaping plan shall be submitted to the City for approval prior to construction for any site where development will disturb existing or potential native plant habitat. The plan shall provide for vegetation restoration in compliance with Subsection C.2 above. Landscaping with exotic plants shall be limited to outdoor living space immediately adjacent to the proposed development. Invasive non-native plants including**, but not limited to,** Pampas grass, Acacia, Genista, and non-native iceplant pose a threat to indigenous plant communities and shall not be approved as part of any proposed landscaping.

4. **Fencing.** Fencing within or adjacent to ESHAs shall be restricted to that which will not impact public views or the free passage of native wildlife, and shall employ design and materials determined by the review authority to be compatible with the visual and biological character of the habitat.

5. **Resource protection during construction.** Habitat areas containing vegetation that is essential to the maintenance of the habitat and/or rare or endangered plant or animal species shall be protected from disturbance by construction activities. Temporary wire mesh fencing shall be placed around habitat prior to construction, and protected areas shall not be used by workers or for the storage of machinery or materials. Inspections for compliance shall occur during construction.

6. **Herbicide use.** The use and disposal of any herbicides for invasive species removal shall follow the written directions of the manufacturer, shall comply with all conditions imposed by the City, and shall be accomplished in a manner that will fully protect adjacent native vegetation.

7. ~~D.~~ **Erosion and sediment control.** During construction, temporary fencing shall be placed around the ~~wetland/~~ **ESHA** buffer area. Prior to issuance of a **Coastal Development Permit or any required** Grading Permit, an erosion control plan prepared by a registered professional engineer shall be submitted to the City Engineer for approval, including best-management practices to minimize siltation, sedimentation, and erosion. To ensure that sediment remains on the site and is not transported into **adjacent ESHA**~~wetlands~~, erosion and sediment controls shall be left in place until the site is stabilized with permanent vegetation. **[*MOVED FROM 18.58.040 (D)*]**

E. Diking, Filling, and Dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following uses:

1. **New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.**

2. **Maintaining existing or restoring previously dredged depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.**

3. **New or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.**

4. Incidental public service purposes, including but not limited to burying cables and pipes or inspection of piers and maintenance of existing intake and outfall pipelines.

5. Restoration purposes.

6. Nature study, aquaculture, or similar resource dependent activities.

The more specific permissible use provisions for wetlands control over the more general specific use provisions for other types of ESHA.

F. Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to:

(1) Necessary water supply projects,
(2) Flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or
(3) Developments where the primary function is the improvement of fish and wildlife habitat.

G. Development within Other Types of ESHA shall be limited to the following uses:

1. Resource Dependent Uses. Public nature trails within riparian ESHA are considered a resource dependent use provided that (1) the length of the trail within the riparian corridor shall be minimized, (2) the trail crosses the stream at right angles to the maximum extent feasible, (3) the trail is kept as far up slope from the stream as possible, (4) trail development involves a minimum of slope disturbance and vegetation clearing, and (5) the trail is the minimum width necessary. Interpretive signage may be used along permissible nature trails accessible to the public to provide information about the value and need to protect sensitive resources.

2. Restoration projects where the primary purpose is restoration of the habitat.

3. Invasive plant eradication projects if they are designed to protect and enhance habitat values.

H. Buffer Areas: New development adjacent to ESHA shall provide buffer areas to serve as transitional habitat and provide distance and physical barriers to human intrusion. The purpose of this buffer area is to provide for a sufficient area to protect environmentally sensitive habitats from significant degradation resulting from future development. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and the City, that 100 feet is not necessary to protect the resources of that particular habitat area and the adjacent upland transitional habitat function of the buffer from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and in no event shall be less than 30 feet in width. The criteria to be utilized to establish buffer areas shall be those criteria contained in Policy LC-3.2.2 of the Open Space and Conservation Element of the Coastal Zone General Plan.

Required buffer areas shall be measured from the following points:

- The outer edge of the canopy of riparian vegetation for riparian ESHA or the top of stream bank where no riparian vegetation exists.
- The upland edge of a wetland for a wetland ESHA.
- The outer edge of the plants that comprise the rare plant community for rare plant community ESHA.

I. Permitted Uses within ESHA Buffers. Development within an Environmentally Sensitive Habitat Area buffer shall be limited to the following:

1. Wetland Buffer.

a. Uses allowed within the adjacent Wetland ESHA pursuant to Section 18.50.050(E)(1)-(9).

b. Nature trails and interpretive signage designed to provide information about the value and protection of the resources.

c. Invasive plant eradication projects if they are designed to protect and enhance habitat values.

2. Riparian Buffer.

a. Uses allowed within the adjacent River and Stream ESHA pursuant to Section 18.50.050(F)(1)-(3).

b. Nature trails and interpretive signage designed to provide information about the value and protection of the resources, if they are designed to protect and enhance habitat values.

c. Buried pipelines and utility lines.

c. Bridges.

d. Drainage and flood control facilities.

3. Other types of ESHA Buffer.

a. Nature trails and interpretive signage designed to provide information about the value and protection of the resources, if they are designed to protect and enhance habitat values.

b. Restoration projects where the primary purpose is restoration of the habitat.

c. Invasive plant eradication projects if they are designed to protect and enhance habitat values.

~~D~~J. **Development standards for dredging.**

1. **Dredging.** When consistent with the allowable use provisions of ~~this~~ Section 18.40.040(A), ~~and where necessary to maintain tidal flow and the continued viability of wetland habitat, or for flood control purposes,~~ dredging shall at a minimum, comply with the following requirements.

a. Dredging shall be prohibited in breeding and nursery areas and during periods of fish migration and spawning.

b. Dredging shall be limited to the smallest areas feasible.

c. Designs for dredging and excavation projects shall include protective measures such as silt curtains, diapers, and weirs to protect water quality in adjacent areas during construction by preventing the discharge of refuse, petroleum spills, and unnecessary dispersal of silt materials.

~~F~~K. **Specific spoils disposal location requirements.** There shall be no disposal of fill or dredging spoils off-site within the Coastal Zone except the existing dredge spoils site located near the mouth of the Noyo Harbor, which ~~will~~ may be used for maintenance dredging of the harbor. These activities shall be compatible with proposed public access or designated commercial or recreational boating traffic, and uses shall not interfere with the existing spoils disposal operation.

~~D~~ L. **Required findings.** A ~~planning~~ **coastal development** permit **for development allowed within an environmentally sensitive habitat area (ESHA) or within an ESHA buffer shall** ~~on a site that is subject to the requirements of this Section may~~ be approved only when the review authority first finds ~~that there will be no significant negative impact on the sensitive habitat, and the proposed development and use will be consistent with the biological continuance of the habitat~~, in addition to all other findings required by these regulations**, that:** ~~for the planning permit by Chapter 18.71 (Permit Review and Decisions~~

(1) The resource as identified will not be significantly degraded by the proposed development;

(2) There is no feasible less environmentally damaging alternative; and

(3) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

~~18.50.060 – Hazards~~ *[MOVED TO CHAPTER 18.54]*

~~A. **Purpose.** This Section provides requirements to ensure that development in the Coastal Zone shall:~~

~~1. Minimize risks to life and property in areas of high geologic and flood hazard;~~

~~2. Ensure structural integrity and stability; and~~

~~3. Neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.~~

~~B. **Blufftop development.** Development on a site with a bluff or cliff between the first public road and the ocean shall comply with the requirements of Chapter 18.54 (Ocean Fronting Development).~~

~~C. **Floodplain development.** Development within an identified floodplain in the Coastal Zone shall be limited to the uses allowed by Article 2 (Zoning Districts and Allowable Land Uses).~~

~~1. **Standards for all uses.** Each use shall be designed to minimize danger of loss of life and property during a flood, both on and downstream from the site.~~

~~2. **Pudding Creek area.** No new development shall be allowed within the 100 year flood plain portions of the Pudding Creek hazard area, as identified by the General Plan.~~

18.50.070 - Visual Resources

A. **Purpose.** The provisions of this Section are intended to **consider and protect the scenic and visual qualities of coastal areas,** maintain existing scenic views of the coastline from Highway 1, and ensure that proposed development is consistent with the character of its surroundings.

B. **Applicability.** The requirements of this Section apply to **the review and approval of planning permits, including but not limited to, coastal development permits for** proposed development **located on any parcel of land that is located along, provides views to, or is visible from any scenic area, scenic road, or public viewing area including**~~:~~:

1. Along the west side of Highway 1 ~~between the first continuous public road and the ocean;~~

2. Along the bluff of the Noyo River including any area within viewing distance from the bluff, and the bluffs at the mouth of Pudding Creek within the Coastal Zone (CZ); ~~and~~

3. Along Highway 20 and Highway 1 on sites with views to the ocean~~.~~**; and**

4. Areas designated "Potential Scenic Views Toward the Ocean or the Noyo River" on Map LC-3.

C. Visual Analysis. A Visual Analysis shall be required for all new development located in areas designated "Potential Scenic Views Toward the Ocean or the Noyo River" on Map LC-3, except development listed in (a)-(e) below.

1. Development exempt from the Visual Analysis requirement includes the following:

a. The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same

use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.

b. The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

c. Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

d. The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.

e. Any repair or maintenance activity for which the Director has determined, pursuant to Section 18.71.040 (Coastal Development Permit), that a coastal development permit will be required.

2. Information required for Visual Analysis: Applications for development requiring a Visual Analysis shall include the following:

a. Photographs of scenic views as seen from public lands and rights-of-ways;

b. Photographic simulations wherein proposed structures should be superimposed on these photographs by means of lines, blocked out areas of shading, or other means in a manner that accurately identifies the location, height, and bulk of the structures;

c. Provisions for the erection of story poles to show the height and footprint of the building (the height at the ridgeline and at all corners); and

d. A site map and elevations of proposed structures should be provided with an explanation of how the scenic views would be affected by the proposed development, and what mitigations are proposed.

3. Definitions as used in this subsection:

a. "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

b. "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.

c. "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

~~C~~D. **General findings for project approval.** Coastal Development Permit approval for ~~new~~ development in the areas identified by Subsection B. shall require that the review authority first find, ~~where applicable~~, that the proposed project:

1. Minimize the alteration of natural landforms;

2. Is visually compatible with the character of the surrounding area;

3. Is sited and designed to protect views to and along the ocean and scenic coastal areas; and

4. Restores and enhances visual quality in visually degraded areas, where feasible.

E. Development Standards.

1. Development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent.

2. Fences, walls, and landscaping shall minimize blockage of views of scenic areas from roads, parks, beaches, and other public viewing areas.

3. Development shall minimize removal of natural vegetation. Existing native trees and plants shall be preserved on the site to the maximum extent feasible.

4. Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures and shielded so that no light shines beyond the boundaries of the property.

~~D~~F. **Commercial development west of Highway 1.** Commercial development west of Highway 1 shall be designed and constructed in a manner that maintains scenic views of the coast by providing sufficient separation between buildings, as determined by the review authority based on the characteristics of the site and existing development in the area, and by preventing a continuous facade of buildings that would block scenic views of the coastline.

~~E~~G. **Industrial development.** All new industrial development sited next to visitor serving land uses and facilities including public accessways shall be designed so as to minimize the visual impact on adjacent visitor serving land uses and facilities.

H. Development North of Pudding Creek. [*COPIED FROM LC-5.2.1*]

a. New development north of Pudding Creek and west of Main Street shall be required to leave a minimum of 30 percent of the parcel frontage undeveloped. The undeveloped parcel frontage shall not include narrow passageways between buildings on the site, but shall be concentrated on the north and/or south ends of each building complex.

b. All new development (including decks and balconies) north of Pudding Creek shall be set back at least 30 feet from the edge of the Old Haul Road and shall be consistent with all other applicable LCP setback requirements.

I. Bluff Face and Bluff Retreat Setback Development.

1. Development on the bluff face and within the bluff retreat setback shall be limited to the following uses with a conditional use permit where there is no feasible less environmentally damaging alternative, feasible mitigation measures have been provided to minimize all adverse environmental impacts, and allowable structures are designed be visually compatible with the surrounding area to the maximum extent feasible.

(a) engineered accessways or staircases to beaches for public access purposes,
(b) pipelines to serve coastal dependent industry,
(c) habitat restoration,
(d) hazardous materials remediation, and
(e) landform alterations where such alterations re-establish natural landforms and drainage patterns that have been eliminated by previous development activities.

2. Blufftop development shall incorporate a setback from the edge of the bluff that avoids and minimizes visual impacts from the beach and ocean below. The blufftop setback necessary to protect visual resources

may be in excess of the setback necessary to ensure that risk from geologic hazards are minimized for the life of the structure, as detailed in 18.50.060 (Hazards and Shoreline/Bluff Development).

J. Alteration of natural landforms. All new development shall be sited and designed to minimize alteration of natural landforms by:

1. Conforming to the natural topography.
2. Preventing substantial grading or reconfiguration of the project site.
3. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split level or stepped-pad designs.
4. Requiring that man-made contours mimic the natural contours.
5. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.
6. Minimizing grading permitted outside of the building footprint.
7. Clustering structures to minimize site disturbance and to minimize development area.
8. Minimizing height and length of cut and fill slopes.
9. Minimizing the height and length of retaining walls.
10. Cut and fill operations may be balanced on-site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.

18.50.080 - Water Supply

The quality and quantity of groundwater supplies shall be maintained, and where feasible, restored through control of wastewater discharge and entrainment, runoff controls and prevention of groundwater depletion, enforced as follows.

A. All new development for which water or sewer service is needed shall be connected to the City water or sewer systems. Permits shall be withheld subject to applicant compliance with this provision. Limited exceptions to this requirement may be allowed by the review authority in special or hardship circumstances and where accompanied by specific findings.

B. Existing development currently utilizing well and/or septic systems that do not meet health standards shall convert to City water and sewer. No permit for renovation, reconstruction, rehabilitation or renewal shall be granted without applicant compliance with this provision.

CHAPTER 18.52 - CREEK AND RIPARIAN RESOURCE PROTECTION

Sections:

18.52.010 - Purpose
18.52.020 - Applicability
18.52.030 - Stream Channel Analysis
18.52.040 - Limitation on Streambed Alteration
18.52.050 - Development Standards

18.52.010 - Purpose

This Chapter provides standards for the protection of watercourse and riparian resources within the City, including provisions for ~~adequate buffer areas between watercourses and adjacent development, to~~ retaining the watercourses as valuable natural, scenic, and recreational amenities as appropriate.

18.52.020 - Applicability

The provisions of this Chapter apply to **the review of planning permits, including coastal development permits, for** proposed development on any site within the City that is adjacent to **riparian ESHA** or crossed by a watercourse, ~~both within and outside of the Coastal Zone~~. **This Chapter supplements the procedures and standards of Section 18.50.050 (Environmentally Sensitive Habitat Areas).**

18.52.030 - Stream Channel Analysis

In addition to the biological report required by Section 18.50.050(B) (Environmentally Sensitive Habitat Areas), each planning permit application for a project that is subject to this Chapter shall include a site-specific stream channel analysis prepared by a hydrologist, civil engineer, or other qualified professional approved by the City to identify the precise boundary/top of bank of the watercourse. The Director may waive this requirement if it is determined that the project, because of its size, location, or design will have no impact on the watercourse, or that sufficient information already exists and further analysis is not necessary. A required stream channel analysis shall include all information and materials required by the Department. **The "top of bank" shall mean the upper elevation of land, having a slope not exceeding 10 percent, which confines the channel waters flowing in the watercourse in their normal winter flow.** ***[MOVED FROM BELOW]***

18.52.040 - Limitation on Streambed Alteration

Channelization, dams or other substantial alterations of **rivers and** streams ~~channels~~ **shall incorporate the best mitigation measures feasible, and shall be** ~~are~~ limited to:

A. Water supply projects, provided that quantity and quality of water from streams shall be maintained at levels necessary to sustain functional capacity of streams, wetlands, estuaries and lakes.

B. Flood control projects, where such protection is necessary for public safety or to protect existing commercial or residential structures, when no feasible alternative to streambed alteration is available; **and**

C. ~~Construction of improvements to~~ **Developments where the primary function is the improvement of** fish and wildlife habitat. ~~and~~

~~D. Maintenance of existing flood control channels.~~

Streambed alterations shall not be conducted unless consistent with all applicable provisions of the Local Coastal Program and these regulations and if applicable, permit approval from the California Department of Fish and Game, the U.S. Army Corps of Engineers, and California State Water Resources Control Board.

18.52.050 - Development Standards

A. **All development adjacent to riparian ESHA shall comply with the general development standards and ESHA buffer requirements of Sections 18.50.050 (D) and (H).**

~~A. **Watercourse setback requirement.** New development shall be setback a minimum of 50 feet from the top of the creek bank (or the upland edge of riparian vegetation where no top of bank in compliance with Subsection A.3 exists), except as provided in Subsection A.2, and as follows:~~

~~1. **Permitted uses within the setback.** Permitted uses are limited to passive recreation, educational (interpretive) facilities, utility lines, pipelines, drainage and flood control facilities, bridges, pedestrian and equestrian trails, if the review authority first finds that:~~

~~a. Alternative locations and routes are infeasible or more environmentally damaging; and~~

~~b. Adverse environmental effects are mitigated to the maximum extent feasible.~~

~~2. **Riparian habitat setback adjustment.** Coastal Development Permit approval may include the reduction of a minimum riparian setback if the review authority first makes all the following findings, provided that in no case shall a structure be allowed closer than 10 feet from a stream bank.~~

~~a. The adjustment is necessary to allow a principal permitted use of the property, and redesign of the proposed development to comply with the required setback would not allow the use; and~~

~~b. The adjustment is the minimum necessary to accommodate the principal permitted use; and~~

~~c. A biological analysis prepared by a qualified professional approved by the City determines that the lesser setback is sufficient to protect the riparian habitat; or~~

~~d. The required setback would prohibit all reasonable development of the site.~~

~~3. **Top of bank defined.** The "top of bank" shall mean the upper elevation of land, having a slope not exceeding 10 percent, which confines the channel waters flowing in the watercourse in their normal winter flow.~~ [***MOVED TO ABOVE***]

B. **Removal or alteration of riparian vegetation.** The removal, cutting or alteration of vegetation that protects a riparian habitat ~~is permitted only~~ **shall be prohibited except for: (1)** ~~unless~~ **vegetation removal authorized through coastal permit approval to accommodate permissible development, (2) removal of trees for disease control, (3) public safety purposes to abate a nuisance consistent with Coastal Act Section 30005, or (4) removal of firewood for the personal use of the property owner at his or her residence to the extent that such removal does not constitute development pursuant to Coastal Act Section 30106**.

~~1. For streambed alterations allowed by Section 18.52.040 above;~~

~~2. Where no feasible alternative exists;~~

~~3. Where an issue of public safety exists;~~

~~4. Where expanding vegetation is encroaching on established agricultural uses;~~

~~5. For minor public works projects, including but not limited to utility lines, pipelines, driveways and roads, where the Director determines no feasible alternative exists; or~~

~~6. To locate a principally permitted use on an existing lot of record where no feasible alternative exists, and the review authority first makes all the findings provided in Subsections A.1. and A.2. above.~~

C. **Bank stabilization. Where bank stabilization is approved consistent with the allowable use provisions of Sections 18.52.040 and 18.52.050, such stabilization shall comply with the following:** ~~Development or land use changes that increase impervious surfaces or sedimentation may result in channel erosion. Therefore, the City Engineer may require measures to stabilize watercourse banks.~~

1. Rehabilitation is the preferred method of stabilization, with the objective of maintaining the natural character of the watercourse and riparian area. Rehabilitation may include enlarging the channel at points of obstruction, clearing obstructions at points of constriction, limiting uses in areas of excessive erosion, and restoring riparian vegetation.

2. Concrete channels and other mechanical stabilization measures shall not be allowed unless no other alternative exists.

3. If bank stabilization requires other than rehabilitation or vegetative methods, hand-placed stone or rock rip-rap are the preferred methods.

D. **Design of drainage improvements.** Where daylighted drainage improvements are approved, they shall be placed in the least visible locations and naturalized through the use of river rock, earthtone concrete, and landscaping with native plant materials.

CHAPTER 18.54 – HAZARDS AND SHORELINE/BLUFF ~~OCEAN FRONTING~~ DEVELOPMENT

[MOD: Move Policies of Chapter 18.50.060 to Chapter 18.54 and modify as follows:]

Sections:

18.54.010 - Purpose
18.54.020 - Applicability
18.54.030 - Limitations on Development
18.54.040 - Application Requirements
18.54.050 - Site Planning and Project Design
18.54.060 - Shoreline Protection
18.54.070 – Floodplain Development

18.54.010 - Purpose

~~A.~~ Purpose. This Section provides requirements to ensure that development in the Coastal Zone shall:

1. Minimize risks to life and property in areas of high geologic**, fire,** and flood hazard;

2. Ensure structural integrity and stability; and

3. Neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

~~B. Blufftop development. Development on a site with a bluff or cliff between the first public road and the ocean shall comply with the requirements of Chapter 18.54 (Ocean Fronting Development).~~

~~This Chapter provides standards for proposed development and new land uses on parcels which border the ocean, where careful design and development practices are necessary to preserve significant coastline features, implement applicable provisions of the General Plan and Local Coastal Program, and comply with the Coastal Act.~~

18.54.020 - Applicability

The provisions of this Chapter apply to all development and new land uses proposed on **blufftop and shoreline** parcels **and within areas of high geologic, fire, and flood hazard**~~adjacent to the ocean~~. ~~In the event of any perceived conflict between the provisions of this Chapter and any other provision of these regulations, this Chapter shall control.~~

18.54.030 - Limitations on Development

A. **Prohibition on development needing protection.** Proposed development shall not be approved where the review authority determines that shoreline protective structures will be necessary to protect the new structures at the time of development, or within 100 years of development.

B. **Public structures. All development, including** Stairs, retaining walls, fences, pipelines, and similar public or quasi-public facilities located on coastal bluffs shall require a Coastal Permit.

18.54.040 - Application Requirements

Land use permit applications for development on ~~ocean fronting~~ **blufftop and shoreline** parcels shall include the following information where applicable, in addition to all the information required by Section 18.70.040 (Application Preparation and

Filing) **and 18.71.040 (Coastal Development Permit)**.

A. **Erosion control plan.** All land use permit applications for **blufftop and shoreline** ~~ocean fronting~~ parcels shall include a site specific erosion control plan. The plan shall be prepared by a registered engineer qualified in hydrology and soil mechanics, and shall ensure that the development will not **create nor** contribute to the erosion or failure of any bluff face, and will eliminate or mitigate any adverse impacts on local shoreline sand supply to the maximum extent feasible.

B. **Geology report.** ~~A geology report shall be required when structures are proposed within an area between the face of the bluff, and a line described on the blufftop by the intersection of a plane inclined at a 20 degree angle from horizontal, passing through the toe of the bluff or cliff, or 50 feet inland from the blufftop, whichever is greater.~~ **Applications for blufftop and shoreline development located in or near an area subject to geologic hazards, including but not limited to, areas of geologic hazard shown on Map SF-1 of the Coastal General Plan, shall be required to submit a geologic/soils/geotechnical study that identifies all potential geologic hazards affecting the proposed project site, all necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard.**

C. **Preparation and contents of geology report.** A required geology report shall be prepared by a qualified, licensed **Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE)** ~~engineer or engineering geologist~~ approved by the City, and shall be submitted with the planning permit application for the proposed **development** ~~structure~~. The report shall consider, describe, and analyze the following:

1. Cliff geometry and site topography, extending the surveying work beyond the site as needed to depict unusual geomorphic conditions that might affect the site;

2. Historic, current, and foreseeable cliff erosion, including investigation of recorded land surveys and tax assessment records in addition to the use of historic maps and photographs where available, and possible changes in shore configuration and sand transport;

3. Geologic conditions, including soil, sediment, and rock types and characteristics, in addition to structural features such as bedding, joints, and faults;

4. Evidence of past or potential landslide conditions, the implications of such condition for the proposed development, and the potential effects of the development on landslide activity;

5. Impact of construction activity on the stability of the site and adjacent area;

6. Ground and surface water conditions and variations, including hydrologic changes caused by the development (e.g., introduction of sewage, effluent, and irrigation water to the groundwater system, alterations to surface drainage, and the like);

7. Potential erodibility of the site and mitigation measures to be used to ensure minimized erosion problems before and after construction (i.e., landscape and drainage design);

8. Effects of marine erosion on the coastal bluffs~~;~~

9. Potential effects of seismic forces resulting from a maximum credible earthquake; ~~and~~

10. Any other factors that might affect slope or bluff stability.

11. **Whether the proposed project will be subject to or contribute to significant geologic instability throughout the 100-year life span of the project;**

12. Effects of future sea level rise on the development;

13. Slope stability and bluff erosion rate determination performed as outlined in Section E and F below; and

14. An alternatives analysis of, and mitigation measures for, all potential impacts.

In addition to all applicable information required by section (C)(1)-(14) above, all applications for new shoreline structures shall include an analysis of beach erosion, wave run-up, and tsunami and flood hazards prepared by a licensed civil engineer with expertise in coastal engineering. These reports shall address and analyze the effects of said development in relation to the following:

1. The profile of the beach;
2. Surveyed locations of mean high tide lines acceptable to the State Lands Commission;
3. The availability of public access to the beach;
4. The area of the project site subject to design wave run-up, based on design conditions;
5. Foundation design requirements;
8. The long-term effects of proposed development on sand supply;
9. The FEMA Base Flood Elevation and other mapped areas (A,B, or V zones);
10. Future projections in sea level rise; and
11. Project alternatives designed to avoid or minimize impacts to public access.

D. Public Access information. Applications for blufftop or shoreline development, including but not limited to shoreline protective structures, shall include a site map that shows all existing easements, deed restrictions, or OTD's and/or other dedications for public access or open space and provides documentation that the development shall be located outside of and consistent with the provisions of such easement or offers.

E. Slope Stability Analysis. For the purpose of this section, quantitative slope stability analyses shall be undertaken as follows:

1. The analyses shall demonstrate a factor of safety greater than or equal to 1.5 for the static condition and greater than or equal to 1.1 for the seismic condition. Seismic analyses may be performed by the pseudostatic method, but in any case shall demonstrate a permanent displacement of less than 50 mm.

2. Slope stability analyses shall be undertaken through cross-sections modeling worst case geologic and slope gradient conditions. Analyses shall include postulated failure surfaces such that both the overall stability of the slope and the stability of the surficial units is examined.

3. The effects of earthquakes on slope stability (seismic stability) shall be addressed through pseudostatic slope analyses assuming a horizontal seismic coefficient of 0.15g, and shall be evaluated in conformance with the guidelines published by the American Society of Civil Engineers, Los Angeles Section (ASCE/SCEC), "Recommended Practices for Implementation of DMS Special Publication 117, Conditions for Analyzing and Mitigating Landslide Hazards in California."

4. All slope analyses shall be performed using shear strength parameters (friction angle and cohesion), and unit weights determined from relatively undisturbed samples collected at the site. The choice of shear strength parameters shall be supported by direct shear tests, triaxial shear test, or literature references.

5. All slope stability analyses shall be undertaken with water table or potentiometric surfaces for the highest potential ground water conditions.

6. If anisotropic conditions are assumed for any geologic unit, strike and dip of weakness planes shall be provided, and shear strength parameters for each orientation shall be supported by reference to pertinent direct sheer tests, triaxial shear test, or literature.

7. When planes of weakness are oriented normal to the slope or dip into the slope, or when the strength of materials is considered homogenous, circular failure surfaces shall be sought through a search routine to analyze the factor of safety along postulated critical failure surfaces. In general, methods that satisfy both force and moment equilibrium (e.g., Spencer, Morgenstern-Price, and General Limit Equilibrium) are preferred. Methods based on moment equilibrium alone (e.g., Bishop's Method) also are acceptable. In general, methods that solve only for force equilibrium (e.g., Janbu's method) are discouraged due to their sensitivity to the ratio of normal to shear forces between slices.

8. If anisotropic conditions are assumed for units containing critical failure surfaces determined above, and when planes of weakness are inclined at angles ranging from nearly parallel to the slope to dipping out of slope, factors of safety for translational failure surfaces shall also be calculated. The use of a block failure model shall be supported by geologic evidence for anisotropy in rock or soil strength. Shear strength parameters for such weak surfaces shall be supported through direct shear tests, triaxial shear test, or literature references.

9. The selection of shear strength values is a critical component to the evaluation of slope stability. Reference should be made to American Society of Civil Engineers, Los Angeles Section (ASCE/SCEC), "Recommended Practices for Implementation of DMS Special Publication 117, Conditions for Analyzing and Mitigating Landslide Hazards in California." when selecting shear strength parameters.

F. Bluff Retreat Rate. For the purpose of this section, the long-term average bluff retreat rate shall be determined by the examination of historic records, surveys, aerial photographs, published or unpublished studies, or other evidence that unequivocally show the location of the bluff edge through time. The long-term bluff retreat rate is an historic average that accounts both for periods of exceptionally high bluff retreat, such as during extreme storm events, and for long periods of relatively little or no bluff retreat. Accordingly, the time span used to calculate a site-specific long-term bluff retreat rate shall be as long as possible, but in no case less than 50 years. Further, the time interval examined shall include the strong El Niño winters of 1982-1983, and 1997-1998.

The expected bluff retreat rate over the expected life of the development shall be based in part on the historic bluff retreat rate, but shall also include consideration of the effects of continued historic rates of sea level rise, potential accelerated sea level rise, increase in significant wave heights, and increase in storm intensity and frequency, as is expected under most scenarios of the Intergovernmental Panel on Climate Change.

18.54.050 - Site Planning and Project Design

A. **Design.** All development adjacent to coastal bluffs and the beach shall be sited and designed to reduce the visual impact of bulk and scale.

B. **Height limits.** Height limits for structures on **blufftop and shoreline** ~~ocean fronting~~ parcels are established by the applicable zoning district.

C. **Setbacks.** Development proposed on **blufftop and shoreline** ~~ocean fronting~~ parcels shall comply with the setback requirements of the applicable primary zoning district, **and shall also comply with the required** ~~except where a side or rear lot line is adjacent to a coastal bluff, or where public access and/or recreational areas are required in compliance with these regulations. Proposed development shall be~~ set back from the top of the bluff as provided by this Subsection.

1. **Bluff retreat setback requirements.** ~~New structures shall be set back a sufficient distance from the bluff top to be safe from bluff erosion for a minimum of 100 years~~ **All new development located on a blufftop shall**

be setback from the bluff edge a sufficient distance to ensure that it will be stable for a projected 100-year economic life. This entails an assurance that a factor of safety against slope instability of 1.5 (static) and 1.1 (pseudostatic) shall be maintained for the economic life of the development as determined by a site-specific geology report, prepared in compliance with Section 18.54.040.~~B~~C (~~Application Content~~ – Preparation and contents of Geology Report); provided that in no case shall the minimum setback be less than 25 feet. Stable shall be defined as maintaining a minimum factor of safety against sliding of 1.5 (static) and 1.1 (pseudostatic) as defined in Section 18.54.040 (E). This requirement shall apply to the principal structure and accessory or ancillary structures. Slope stability analysis and erosion rate estimates shall be performed by a licensed Certified Engineering Geologist or Geotechnical Engineer.

2. ~~Use of~~ Bluff Face and bluff retreat setbacks development. ~~No development except pathways, stairways, fencing, signage and other features associated with a public accessway or a necessary pipeline associated with a public facility shall be permitted within the bluff retreat setbacks identified in site specific geologic reports.~~ Prohibit development within the bluff retreat setback and on a bluff face except that the following uses may be allowed with a conditional use permit:

   (1) engineered accessways or staircases to beaches for public access purposes,
   (2) pipelines to serve coastal dependent industry,
   (3) habitat restoration,
   (4) hazardous materials remediation, and
   (5) landform alterations where such alterations re-establish natural landforms and drainage patterns that have been eliminated by previous development activities.

   All allowable ocean-front and blufftop development shall be supported by findings that no feasible less environmentally damaging alternative is available and that feasible mitigation measures have been provided to minimize all adverse environmental impacts. Require as a part of the coastal development and conditional use permit applications, a full environmental, geological, and engineering review. Such structures shall be constructed and designed to not create nor contribute to erosion of the bluff face and to be visually compatible with the surrounding area to the maximum extent feasible.

3. **Access and recreational area setbacks.** Additional blufftop setbacks may be required in compliance with Local Coastal Plan policies to accommodate public access and recreational areas, in compliance with Chapter 18.56 (Shoreline Access).

~~A.~~D. Drainage and **Erosion control.** Proposed blufftop and shoreline development shall be designed and constructed to incorporate appropriate drainage and erosion control measures, in compliance with the City's grading standards and shall include measures to insure that:

1. No stockpiling of soil or construction materials shall occur on the shoreline;
2. All grading shall be properly covered and sandbags and/or ditches shall be used to prevent runoff and siltation;
3. Measures to control erosion shall be implemented at the end of each day's work;
4. No machinery shall be allowed in the intertidal zone at any time to the extent feasible;
5. All construction debris shall be removed from the beach.
6. All development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams.
7. All development shall: (1) avoid creating concentrated runoff, particularly over steep slopes and bluff faces, by locating and directing drainage away from the bluff face and by installing energy dissipating devices, (2) create drainage swales, detention, and retention basins where appropriate, (3) control the timing and manner of new construction so that there are no bare soil slopes during the rainy season.

~~B. Storm Ddrainage devices. A storm drainage device shall not extend over the bluff face shall not be permitted if the property can be drained away from the bluff face. Each new storm drainage structures shall be constructed so that drainage water will not spill over or onto the bluff face. Drain pipes shall be allowed only where no other less environmentally damaging drain system is feasible, and drain pipes are designed and placed to minimize impacts to the bluff face, toe of bluff, and beach.~~

~~D~~ E. **Structures on sandy beach.** No permanent structures shall be permitted on a dry sandy beach except facilities necessary for public health and safety, including lifeguard towers.

F. **Deed Restriction. All ocean-front and blufftop development shall be sized, sited and designed to minimize risk from wave run-up, flooding and beach and bluff erosion hazards and avoid the need for a shoreline protection structure at any time during the life of the development. To inform future owners of such restrictions, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235 or the provisions of the certified LCP.**

In areas where the City determines that there are geologic hazards, a development permit shall not be issued until the applicant has signed as a condition of coastal permit approval, a waiver of all claims against the public for future liability or damage resulting from permission to build. All such waivers shall be recorded on the deeds for subject properties. [*MOVED FROM PROGRAM LC-6.1.2*]

18.54.060 - Shoreline Protection Structures

~~C. Shoreline protective structures. Shoreline protective structures including sea walls, revetments, groins, breakwaters, and rip-rap may be allowed with Coastal Development Permit approval.~~ **Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be prohibited unless** ~~only when~~ the review authority determines that the structure is:

1. ~~Necessary to protect existing structures, coastal-dependent uses, public beaches and parks in danger from erosion~~ **required (1) to serve coastal-dependent uses, or (2) to protect public beaches in danger from erosion, or (3) to protect existing structures that were legally constructed prior to the effective date of the Coastal Act, or that were legally permitted prior to the effective date of this Coastal General Plan provided that the CDP did not contain a waiver of the right to a future shoreline or bluff protection structure, or (4) for a development consistent with Section 30233(a) of the Coastal Act;**

2. The least environmentally damaging feasible alternative;

3. Designed to successfully eliminate or mitigate adverse impacts on local shoreline ~~and~~ sand supply;

4. Designed to avoid significant rocky points and intertidal or subtidal areas;

5. Designed to provide lateral beach access, where feasible; ~~and~~

6. Designed to respect natural land forms and minimize visual impact to the extent possible, through means including the use of visually compatible colors and materials~~.~~**; and**

7. Designed to avoid ~~interface~~ **interference** with commercial or recreational boating traffic.

18.50.070 – Floodplain Development

G. Floodplain development. Development within an identified floodplain in the Coastal Zone, **including but not limited to those areas shown on Map SF-2,** shall be limited to **those uses allowed in the Open Space land use**

designation consistent with all other applicable requirements of the LCP. ~~the uses allowed by Article 2 (Zoning Districts and Allowable Land Uses).~~

1. Standards for all uses. Each use shall be designed to minimize danger of loss of life and property during a flood, both on and downstream from the site.

2. Pudding Creek area. No new development shall be allowed within the 100 year flood plain portions of the Pudding Creek hazard area, as identified by the General Plan.

CHAPTER 18.56 - SHORELINE ACCESS

Sections:

18.56.010 - Purpose
18.56.020 - Applicability
18.56.030 - Access Location Requirements
18.56.040 - Access Design Standards
18.56.050 - Prescriptive Rights
18.56.060 - Access Title and Guarantee
18.56.070 – Required Findings and Supporting Analysis for Public Access Dedications

18.56.010 - Purpose

This Section provides requirements for the dedication and improvement of public access to, and along the coast, in conjunction with proposed development and new land uses. The intent of this Section is to ensure that public rights of access to and along the coast are protected as guaranteed by the California Constitution. Coastal access standards are also established by this Section in compliance with the California Coastal Act.

18.56.020 – ~~Applicability~~ Definitions

A. Coastal access defined:

1. Development

"Development" means, on land, in or under water, the placement or erection of a solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; change in density or intensity of use of land, including but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water; or access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private or public or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes; kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section structure includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

2. New Development

For purposes of implementing the public access requirements of Public Resources Code Section 30212 and of this Section, "new development" includes "development" as defined above except for the following:

(a) Structures destroyed by natural disaster: The replacement of any structure, other than a public works facility, destroyed by a disaster; provided that the replacement structure conforms to applicable existing zoning requirements, is for the same use as the destroyed structure, does not exceed either the floor area, height, or bulk of the destroyed structure by more than 10%, is sited in the same location on the affected property as the destroyed structure and does not extend the replacement structure seaward on a sandy beach or beach fronting bluff lot. As used in this section, "disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owners.

(b) Demolition and reconstruction: The demolition and reconstruction of a single-family residence; provided that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, that the reconstructed residence shall be sited in the same location on the affected property as the former structure, that the reconstructed residence does not block or impede public access, that the reconstructed residence does not extend seaward of the demolished residence on a sandy beach or beach fronting bluff lot and that the reconstructed residence does not include or necessitate a shoreline protective device.

(c) Improvements: Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height or bulk of the structure by more than 10 percent, which do not block or impede access, which do not result in a seaward encroachment by the structure and which do not include or necessitate a new or enlarged shoreline protective device.

(d) Repair and maintenance: Repair or maintenance activity which, pursuant to Public Resources Code Section 30610(d) and California Code of Regulations Section 13252, requires no permit unless the activity will have an adverse impact on lateral public access along the beach.

(e) Reconstruction and/or repair of a seawall, revetment, retaining wall or other shoreline protective device: The reconstruction or repair of any shoreline protective device; provided that the reconstructed or repaired shoreline protective device does not substantially alter the foundation of the protective device, does not result in the replacement of 20 percent or more of the materials of the existing structure with materials of a different kind, does not extend the protective device seaward of the location of the former structure. As used in this section, "reconstruction or repair" of a seawall shall not include replacement by a different type of structure or other modification in design or construction which results in different or greater impacts to public access or other shoreline resources than those of the existing structure.

3. Sea
"Sea" means the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding non estuarine rivers, streams, tributaries, creeks and flood control and drainage channels.

B. Types of Public Access

1. **Vertical access:** Provides public access from the first public road, trail, or public use area nearest the sea to the publicly owned shoreline, tidelands, or established lateral access perpendicular to the shore.

2. **Lateral access:** Provides for public access and use along or parallel to the shoreline.

3. **Blufftop access:** Provides access and coastal viewing along blufftops that run parallel to the shoreline, and in some cases provide the only opportunity for public access along the shoreline above a rocky intertidal zone with no sandy beach.

4. Trail access: Provides public access (i.e. hiking and equestrian) along a coastal or mountain recreational path, including to and along canyons, rivers, streams, wetlands, lagoons, freshwater marshes, significant habitat and open space areas or similar resource areas, and which also may link inland trails or recreational facilities to the shoreline.

5. Recreational access: Provides public access to coastal recreational resources through means other than those listed above, including but not limited to, parking facilities, viewing platforms, and blufftop parks.

C. Character of Accessway Use

1. Pass and repass refers to the right of the public to walk and run along an accessway. Because this use limitation can substantially restrict the public's ability to enjoy adjacent publicly owned tidelands by restricting the potential use of lateral accessways, it will be applied only in connection with vertical access or other types of access where the findings required by Section 18.56.070 of this Development Code establish that the limitation is necessary to protect natural habitat values, topographic features (such as eroding bluffs), or privacy of the landowner.

2. Passive recreational use refers to the right of the public to conduct activities normally associated with beach use, such as walking, swimming, jogging, sunbathing, fishing, surfing, picnicking, but not including organized sports, campfires, or vehicular access other than for emergencies or maintenance.

3. Active recreational use refers to the right of the public to conduct the full range of beach-oriented activities, not including horseback riding and use of motorized vehicles unless specifically authorized.

18.56.030 - Access Location Requirements

Vertical, lateral, and/or blufftop access shall be required by the review authority in compliance with this Chapter, in the locations specified by the ~~Coastal Element~~ Open Space, Conservation, and Parks Element of the Coastal General Plan.

A. ACCESS REQUIRED

As a condition of approval and prior to issuance of a permit or other authorization for any new development identified in 1 - 4 of this section, except as provided in Section 18.56.020 of this Development Code, a 25 foot wide easement for one or more of the types of access identified in Section ### of this Development Code shall be required and shall be supported by findings required by Section 18.56.070 of this Development Code; provided that no such condition of approval shall be imposed if the analysis required by Section 18.56.070 of this Development Code establishes that the development will not adversely affect, either individually or cumulatively, the ability of the public to reach and use public tidelands and coastal resources or that the access dedication requirement will not alleviate the access burdens identified. For any project where such mitigation is required, the preferred implementation should be through a recorded grant of easement to the Executive Director of the Coastal Commission or to a designated private nonprofit association acceptable to the City who is willing to accept the easement and willing to operate and maintain the public accessway or trail. Where grants of easement are not feasible because neither the City nor private nonprofit association is willing to accept, maintain and operate the accessway, implementation of required access mitigation shall be implemented through a recorded Offer to Dedicate (OTD) an easement to a public agency or a designated private nonprofit association acceptable to the Executive Director of the Coastal Commission.

a. New Development on any parcel or location specifically identified in the Land Use Plan or in the LCP zoning districts as appropriate for or containing an historically used or suitable public access trail or pathway.

b. New development between the nearest public roadway and the sea.

c. New development on any site where there is substantial evidence of a public right of access to or along the sea or public tidelands, a blufftop trail or an inland trail acquired through use or a public right of access through legislative authorization.

d. New development on any site where a trail, bluff top access or other recreational access is necessary to mitigate impacts of the development on public access where there is no feasible, less environmentally damaging, project alternative that would avoid impacts to public access.

B. **Protection of existing coastal access.** Development shall not interfere with public rights of access to the sea where the rights were acquired through use or legislative authorization. Public access rights may include but are not limited to the use of dry sand and rocky beaches to the first line of terrestrial vegetation.

~~C. **Access requirements.** Proposed development and new land uses located between the ocean **and** the first public road may be required to provide vertical (perpendicular) access from the public road to bluff and beach areas, and lateral access along the beach, shoreline and blufftops, where the review authority first makes specific findings documenting the need for additional public access on and/or through the site, and the relationship of the required dedication to the impacts on existing access, or needs for additional access created by the project.~~

~~D~~C. **Exceptions to access requirements.** Coastal access requirements may be waived by the review authority based upon specific findings that the provision of public access would be inappropriate because:

1. It would be inconsistent with public safety, **military security needs,** or the protection of fragile coastal resources;

2. Adequate access exists within 500 feet of the site;

3. Access at the site would be inconsistent with policies of the **LCP** Coastal Element of the General Plan other than those requiring access; or

4. Requiring or providing the access would be inconsistent with Federal or State law.

5. Project is excepted from the definition of "new development" contained in Section 18.56.020.

18.56.040 - Access Design Standards

The standards of this Section are intended to provide guidance to the review authority in determining the appropriate design of accessways to be required by Coastal Development Permit conditions of approval, in compliance with this Chapter.

A. **Design objectives.** The following are general guidelines as to the size and nature of all public access facilities in the City.

1. **Design and siting.** Accessways and trails should be sited and designed:

   a. To minimize alteration of natural landforms, conform to the existing contours of the land, and to subordinate to the character of their setting;

   b. To prevent unwarranted hazards to the land and public safety;

   c. To provide for the privacy of adjoining residences and to minimize conflicts with adjacent or nearby established uses; and

   d. To prevent damage to sensitive coastal resource areas.

2. **Correction of existing damage/alternative routes.** Where appropriate, coastal accessways should be designed to correct damage resulting from past existing use. **Shoreline and blufftop trail segments that may not be passable at all times shall provide inland alternative routes.**

3. **Accessway specifications.**

   a. **Width. Each public access easement offered for dedication for public use shall be a minimum of 25 feet wide.** The area where public access is allowed within an easement may be reduced to the minimum necessary for pedestrian traffic to avoid:

~~B. **General design standards.** Coastal accessways shall be designed in compliance with the following standards,~~

~~where feasible. The review authority may modify these standards where appropriate to provide greater protection of coastal resources.~~

~~1. **Access easement specifications.** Each public access easement offered for dedication for public use shall be a minimum of 25 feet wide.~~

a. **Width.** **Each public access easement offered for dedication for public use shall be a minimum of 25 feet wide.** The area where public access is allowed within an easement may be reduced to the minimum necessary for pedestrian traffic to avoid:

(1) Adverse impacts on sensitive environmental areas;

(2) Encroachment closer than 20 feet to an existing residence; and/or

(3) Hazardous topographic conditions.

b. **Slope.** The preferred slope gradient for the walking surface of an accessway is zero to 20 percent, and in no case should exceed 70 percent.

c. **Overhead clearance.** The minimum overheard clearance for an accessway shall be seven feet.

3. **Access for disabled persons.** Wherever possible, wheelchair access to the ocean should be provided. Ramps should have dimensions and gradients consistent with current ADA requirements. Where beach access for disabled persons is provided, one out of five parking spaces should be provided for disabled persons, with the spaces marked clearly for handicapped use only.

4. **Residential privacy.** The design and placement of access trails should provide for the privacy of adjacent residences. Accessways may be wide enough to allow the placement of a trail, fencing and a landscape buffer. A vertical accessway abutting a residential area may be fenced at the property line and have its use restricted to daylight hours.

5. **Parking.** Where access sites are required, parking should be provided where feasible. Where handicapped beach access is provided, one out of five parking spaces should be provided for disabled persons. These spaces should be marked clearly for handicapped use only.

6. **Signs.** Directional signing advising the public of vertical, lateral, and blufftop accessways and parking should be placed in prominent locations along access routes, at appropriate places in the downtown and at major visitor destinations. Signs designating handicapped access points and parking should be conspicuous. Potential hazards along accessways such as steep cliffs, steps or slopes should be signed, and fenced when necessary.

~~B. **General design standards.** Coastal accessways shall be designed in compliance with the following standards, where feasible. The review authority may modify these standards where appropriate to provide greater protection of coastal resources.~~

~~1. **Access easement specifications.** Each public access easement offered for dedication for public use shall be a minimum of 25 feet wide.~~

B. Standards for Application of Access Conditions

The public access required pursuant to Section ### of this Development Code shall conform to the standards and requirements set forth in Sections ### through ### of this Development Code.

~~C.~~1. **Vertical access.** A vertical accessway shall comply with the following standards, in addition to the other applicable

requirements of this Section.

~~1. If possible, a vertical accessway should be sited along the border of the development and extend from the road to the bluff edge or shoreline. A different location may be approved if determined by the review authority to be appropriate considering site topography and the design of the proposed project.~~

~~2. If the proposed development includes residential structures, an accessway should not be sited closer than five feet to any residential structure.~~

~~3. A vertical accessway shall have a minimum width of 10~~ **25** ~~feet in width to allow for public pedestrian use of the corridor, but the required width may be reduced in compliance with Subsection B.2.~~

(a) Minimum requirements. A condition to require vertical public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section ### of this Development Code shall provide the public with the permanent right of access, (1) located in specific locations identified in the certified Local Coastal Program for future vertical access, or (2) located in a site for which the City has reviewed an application for a development permit and has determined a vertical accessway is required pursuant to the access and recreation policies of the Coastal Act or the applicable provisions of the Fort Bragg Local Coastal Program.

(b) A condition to require vertical access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section ### of this Development Code shall provide the public with the permanent right of vertical access and be limited to the public right of passive recreational use unless another character of use is specified as a condition of the development. In determining whether another character of use is appropriate, findings shallbe made on the specific factors identified in Section ### of this Development Code.

(c) Each vertical accessway shall extend from the public road to the shoreline (or bluff edge) and shall be legally described as required in Section ### of this Development Code. The access easement shall be a minimum of 25-feet-wide wherever feasible. If a residential structure is proposed, the accessway should be sited along the border or side property line of the project site or away from existing or proposed development and should not be sited closer than 10 feet to the structure wherever feasible. Exceptions to siting a vertical accessway along a border or side property line or not closer than 10 feet to a structure may be required where topographical, physical or other constraints exist on the site.

~~.~~**2.** **Lateral access.** A lateral accessway shall comply with the following standards, in addition to the other applicable requirements of this Section.

~~1. A lateral accessway easement shall extend landward a minimum of 25 feet from mean high tide to the toe of the bluff, or the first line of terrestrial vegetation if the width of the beach is greater than 25 feet.~~

~~2. A lateral accessway should not be closer than 10 feet to an existing single-family residence; however, in determining the appropriate separation of the accessway from private development, the needs of the landowner for privacy shall be considered.~~

(a). Minimum requirements. [Also to be used for blufftop access or trail access, as applicable.] A condition to require lateral access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section ### of this Development Code shall provide the public with the permanent right of lateral public access and passive recreational use along the shoreline (or public recreational area, bikeway, or blufftop area, as applicable); provided that in some cases controls on the time, place and manner of uses, such as limiting access to pass and repass or restricting hours of use, may be justified by site characteristics including sensitive habitat values or fragile topographic features or by the need to protect the privacy of residential development. Active recreational use may be appropriate in many cases where the development is determined to be especially burdensome on public access. Examples include cases where the

burdens of the proposed project would severely impact public recreational use of the shoreline, where the proposed development is not one of the priority uses specified in Public Resources Code Section 30222, where active recreational uses reflect the historic public use of the site, where active recreational uses would be consistent with the use of the proposed project, and where such uses would not significantly interfere with the privacy of the landowner. In determining the appropriate character of public use, findings shall be made on the specific factors enumerated in Section ### of the Fort Bragg Ordinance. Lateral access shall be legally described as required in Section 5.10(F)(8).

~~E.~~3. **Blufftop access.** ~~A lateral blufftop access easement shall have a minimum width of 25 feet, provided that the width of area within the easement where public access is allowed may be reduced in compliance with Subsection B.2. Average annual bluff retreat (erosion) shall be considered by the review authority when requiring lateral blufftop access.~~

(a) Minimum requirements. A condition to require public access to or along a blufftop as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section ### of this Development Code shall provide the public with the permanent right of scenic and visual access from the bluff top to the public tidelands.

(b) The blufftop access shall be limited to passive recreational use and coastal viewing purposes unless another character of use is specified as a condition of development. In determining the appropriate character of use findings shall be made on the specific factors identified in Section ### of this Development Code.

(c) Each blufftop accessway shall be described in the conditions of approval of the coastal development permit as an area beginning at the current bluff edge extending 25 feet inland or [greater or lesser] as determined to be necessary for public safety or geologic stability. However, wherever feasible, the accessway should not extend any closer than 10 feet from an occupied residential structure. Due to the potential for erosion of the bluff edge, the condition shall include a mechanism that will cause the accessway to be adjusted inland as the edge recedes. Any permanent improvements should be set back from the accessway by a distance derived by multiplying the annual rate of blufftop retreat by the 100-year life expectancy of the improvements plus an added geologic stability factor of 1.5.

(d) The accessway shall be legally described as required in Section ### of this Development Code, with the furthest inland extent of the area possible referenced as a distance from a fixed monument in the following manner:

"Such easement shall be a minimum of 25 feet wide located along the blufftop as measured inland from the daily bluff edge. As the daily bluff top edge may vary and move inland, the location of this right of way will change over time with the then current bluff edge."

4. Trail Access

Minimum requirements. A condition to require public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) required pursuant to Section ### of this Development Code shall provide the public with the permanent right of access and active recreational use, (1) along a designated alignment of a coastal recreational path or trail in specific locations identified in the LCP for implementation of trail access, or (2) in locations where it has been determined that a trail access is required to link recreational areas to the shoreline or provide alternative recreation and access opportunities pursuant to the access and recreation policies of the LCP and Coastal Act, consistent with other provisions of this chapter. In determining if another character of use is appropriate, findings shall be made on the specific factors enumerated in Section ### of this Development Code. The trail access shall be legally described as required by Section ### of this Development Code.

5. Recreational Access

Minimum requirements. A condition to require public recreational access as a condition of approval of a coastal development permit (or some other authorization to proceed with development) required pursuant to Section ### of this Development Code shall provide the public with the permanent right of access and use within a designated recreational access area. Conditions required pursuant to this section shall specify the location and extent of the public access area. The form and content should take the form of requirements in Section ### of this Development Code as applicable. The accessway shall be legally described as required in Section ### of this Development Code.

18.56.050 - ~~Prescriptive Rights~~ Protection of Historic Public Use

(a). Substantial evidence determination. Substantial evidence that the area used by the public has been impliedly dedicated shall be determined based on evidence of all of the following:

1. The public must have used the land for a period of five years or more as if it were public land.
2. Without asking for or receiving permission from the owner.
3. With the actual or presumed knowledge of the owner.
4. Without significant objection or bona fide attempts by the owner to prevent or halt the use.
5. The use must be substantial, rather than minimal.
6. The applicant must not have demonstrated that the law has prevented the property from being impliedly dedicated.

(b) Findings. Where an issue as to the existence of public prescriptive rights has been raised during the course of reviewing a coastal development permit application, one of the following findings shall be made:

1. Substantial evidence does not warrant the conclusion that public prescriptive rights exist.
2. There is substantial evidence of the existence of public prescriptive rights, but development will not interfere with those rights.
3. There is substantial evidence of the existence of public prescriptive rights which requires denial of a coastal development permit because of interference with those rights.
4. There is substantial evidence of the existence of public prescriptive rights, but a condition requiring dedication of public access protects the rights of the public and is equivalent in time, place and manner to any prescriptive rights which may exist.
5. There is substantial evidence of the existence of public prescriptive rights, but a condition requiring siting development away from the area used by the public protects the rights of the public.

~~Where evidence of prescriptive rights (historic public use) is found in reviewing a Coastal Development Permit application, equivalent access easements to protect the types, intensity and areas subject to prescriptive rights shall be required as a condition of permit approval.~~

C. Siting and Design Requirements

A1. Development shall be sited and designed in a manner that does not interfere with or diminish any public right of access which may exist based on the potential public rights based on substantial evidence of historic public use. ~~; provided that development may be sited in an area of historic public use if equivalent type, intensity and area of replacement public access is provided on or reasonably adjacent to the project site (parcel).~~ . Only when site constraints are so severe that siting of the accessway or recreational use area in its historic location would significantly impair the proposed development and alternative development siting is not feasible, development may be sited in the area of public right of access based on historic use provided that the applicant provides an equivalent area of public access or recreation to and along the same destination and including the same type and intensity of public use as previously existed on the site. Mechanisms for guaranteeing the continued public use of the area or equivalent area shall be required in accordance with Section ### of this Development Code. Gates, guardhouses, barriers or other structures designed to regulate or restrict access shall not be permitted within private street easements where they have the potential to limit,

deter, or prevent public access to the shoreline, inland trails, or parklands where there is substantial evidence that prescriptive rights exist.

~~B. Continued public use of the site shall be required and guaranteed in compliance with Section 18.56.060 (Access Title and Guarantee).~~

~~C~~2. An access condition shall not serve to extinguish, adjudicate or waive potential prescriptive rights. The following language shall be added to the access condition in a permit with possible prescriptive rights:

> "Nothing in this condition shall be construed to constitute a waiver of any sort or a determination on any issue of prescriptive rights which may exist on the parcel itself or on the designated easement."

18.56.060 - Access Title and Guarantee

Where public coastal accessways are required by this Chapter, approval of a Coastal Development Permit for new development shall require guarantee of the access through deed restriction, or dedication of right-of-way or easement. Before the approval of a Coastal Development Permit, the method and form of the access guarantee shall be approved by City Attorney, and shall be recorded in the office of the County Recorder, identifying the precise location and area to be set aside for public access. The method of access guarantee shall be chosen according to the following criteria:

A. **Deed restriction**. Shall be used only where an owner, association or corporation agrees to assume responsibility for maintenance of and liability for the public access area, subject to approval by the Director.

B. **Grant of fee interest or easement**: Shall be used when a public agency or private organization approved by the Director is willing to assume ownership, maintenance and liability for the access.

C. **Offer of dedication**. Shall be used when no public agency, private organization or individual is willing to accept fee interest or easement for accessway maintenance and liability. These offers shall not be accepted until maintenance responsibility and liability is established.

D. Legal Description of an Accessway: Recordation

(a) An access dedication (offer to dedicate or grant of easement) required pursuant to Section ### of this Development Code shall be described, in the condition of approval of the permit or other authorization for development in a manner that provides the public, the property owner, and the accepting agency with the maximum amount of certainty as to the location of the accessway. As part of the condition of approval, easements shall be described as follows:
(1) for lateral access: along the entire width of the property from the mean high tide line landward to a point fixed at the most seaward extent of development (as applicable): the toe of the bluff, the intersection of sand with toe of revetment, the vertical face of seawall, or other appropriate boundary such as stringline or dripline. On beachfront property containing dune ESHA the required easement for lateral public access shall be located along the entire width of the property from the mean high tide line landward to the ambulatory seawardmost limit of dune vegetation;
(2) for blufftop access or trail access: extending inland from the bluff edge or along the alignment of a recreational trail;
(3) for vertical access: extending from the road to the mean high tide line (or bluff edge). A privacy buffer provided pursuant to Section ### shall be described as applicable.

(b) Prior to the issuance of the coastal development permit or other authorization for development, the landowner shall execute and record a document in a form and content acceptable to the Coastal Commission [or local agency authorized pursuant to 14 Cal. Code of Regulations Section 13574(b)], consistent with provisions of Section ### of this Development Code, irrevocably offering to dedicate (or grant an easement) to a public agency or private association approved by the Coastal Commission [or local agency authorized by the Commission pursuant to 14 Cal. Admin. Code Section 13574(b)] an easement for a specific type of access as described in Section 5.10 (B) and a

specific character of use as described in Section ### of this Development Code, as applicable to the particular condition.

(c) The recorded document shall provide that: (1) the terms and conditions of the permit do not authorize any interference with prescriptive rights in the area subject to the easement prior to acceptance of the offer and, (2) development or obstruction in the accessway prior to acceptance of the offer is prohibited.

(d) The recorded document shall include legal descriptions and a map drawn to scale of both the applicant's entire parcel and the easement area. The offer or grant shall be recorded free of prior liens and any other encumbrances which the Coastal Commission [or local agency authorized by the Commission pursuant to 14 Cal. Admin. Code Section 13574(b)] determines may affect the interest being conveyed. The grant of easement or offer to dedicate shall run with the land in favor of the People of the State of California, binding all successors and assignees, and the offer shall be irrevocable for a period of 21 years, such period running from the date of recording.

E Privacy buffers.
(a) Minimum requirements. Separation between a public accessway and adjacent residential use may be provided when necessary to protect the landowner's privacy or security as well as the public's right to use of the accessway. Any such buffer shall be provided within the development area. Access should not be sited closer to any residential structure than the distnace specified in the certifie LUP, or where there is no distance specified, no closer than 10 feet. The buffer can be reduced where separation is achieved through landscaping, fences or grade separation.

F. Implementation.

(a) For any project where a public access easement is required, the preferred implementation should be through a recorded grant of easement to the City or to a designated private nonprofit association acceptable to the Executive Director of the Coastal Commission who is willing to accept the easement and willing to operate and maintain the public accessway or trail. Where grants of easement are not feasible because neither the City nor private nonprofit association is willing to accept, maintain and operate the accessway, implementation of required access mitigation shall be implemented through a recorded Offer to Dedicate (OTD) an easement to a public agency or a designated private nonprofit association acceptable to the Executive Director of the Coastal Commission.

(b) For all grants of easement to the City, the City shall open the easement to the public as soon as is feasible, and shall be responsible for operating and maintaining the accessway, or the City shall grant the easement to a private nonprofit association acceptable to the Executive Director of the Coastal Commission that is willing to accept, maintain and operate the accessway.

(c) In the case of an Offer to Dedicate or where the City grants an easement to a private nonprofit association, an accessway shall not be required to be opened to public use until a public agency or private association approved in accordance with Section ### of this Development Code agrees to accept responsibility for maintenance and liability of the access, except in cases where immediate public access is implemented through a deed restriction. New offers to dedicate public beach or trail access easements shall include an interim deed restriction that 1) states that the terms and conditions of the permit do not authorize any interference with prescriptive rights, in the area subject to the easement prior to acceptance of the offer and, 2) prohibits any development or obstruction in the easement area prior to acceptance of the offer.

(d) Access facilities constructed on access easements (e.g., walkways, paved paths, boardwalks, etc.) shall be as wide as necessary to accommodate the numbers and types of users that can reasonably be expected. Width of facilities can vary for ramps or paved walkways, depending on site factors.

(e) Any government agency may accept an offer to dedicate or grant of an easement if the agency is willing to operate and maintain the easement. For all grants of an easement or offers to dedicate that are required as conditions of Coastal Development Permits approved by the City, the Executive Director of the Coastal Commission has the authority to approve a private non-profit association that seeks to accept the offer or the grant of easement. In order for the Executive Director to approve any private non-profit association, the non-profit association must

submit a plan that indicates that the association will open, operate, and maintain the easement in accordance with terms of the recorded offer to dedicate or grant the easement.

(f) The appropriate agency or organization to accept and develop trail dedication offers or grants of easement resulting from City issued CDPs shall be determined through coordination, where applicable, with the National Park Service, the State Department of Parks and Recreation, the State Coastal Conservancy, Mendocino County, and nonprofit land trusts or associations. Public agencies and private associations which may be appropriate to accept offers to dedicate include, but shall not be limited to, the State Coastal Conservancy, the State Department of Parks and Recreation, the State Lands Commission, the County, the City, the Mendocino Land Trust, and other nongovernmental organizations.

(g) Grants of public access easements or offers to dedicate shall be accepted for the express purpose of opening, operating, and maintaining the accessway for public use. Unless there are unusual circumstances, the accessway shall be opened within five (5) years of acceptance. If the accessway is not opened within this period, and if another public agency or qualified private association expressly requests ownership of the easement in order to open it to the public, the easement holder shall transfer the easement to that entity within six (6) months of the written request. A Coastal Development Permit that includes a grant of easement or offer to dedicate for public access as a term or condition shall require the recorded offer to dedicate to include the requirement that the easement holder shall transfer the easement to another public agency or private association that requests such transfer, if the easement holder has not opened the accessway to the public within five (5) years of accepting the offer.

(h) Facilities to complement public access to and along the shoreline and trails shall be permitted where feasible and appropriate. This may include parking areas, restrooms, picnic tables, or other improvements. No facilities or amenities, including, but not limited to, those referenced above, shall be required as a prerequisite to the approval of any lateral or vertical accessway or trail OTD or grant of easement or as a precondition to the opening or construction of the accessway or trail. Where there is an existing, but unaccepted and/or unopened public access OTD, easement, or deed restriction for lateral, vertical, bluff or trail access or related support facilities, necessary access improvements shall be permitted to be constructed, opened and operated for the intended public use.

(i) Any accessway which the managing agency or organization determines cannot be maintained or operated in a condition suitable for public use shall be offered to another public agency or qualified private association that agrees to open and maintain the accessway in a condition suitable for public use.

(j) All public access mitigation conditions or terms required by a CDP shall include, as a compliance component, a requirement that the permittee submit a detailed and surveyed map, drawn to scale, locating any proposed or required easements or deed restricted areas.

~~E~~G. **Timing of access implementation.** The type and extent of access to be dedicated, and/or constructed and maintained, as well as the method by which its continuing availability for public use is to be guaranteed, shall be established at the time of land use permit approval, as provided by this Section.

1. **Dedication**: Shall occur before issuance of construction permits or the start of any construction activity not requiring a permit.

2. **Construction of improvements**: Shall occur at the same time as construction of the approved development, unless another time is established through conditions of land use permit approval.

3. **Interference with public use prohibited**. Following an offer to dedicate public access in compliance with ~~to~~ this Section; the property owner shall not interfere with use by the public of the areas subject to the offer before and after acceptance by the responsible entity.

H. Title Information

As a requirement for any public access condition, prior to the issuance of the permit or other authorization for development, the applicant shall be required to furnish a title report and all necessary subordination agreements. All offers or grants shall be made free of all encumbrances which the approving authority pursuant to Section ### of this Development Code determines may affect the interest being conveyed. If any such interest exists which could extinguish the access easement, it must be subordinated through a written and recorded agreement.

18.56.070. REQUIRED FINDINGS AND SUPPORTING ANALYSIS FOR PUBLIC ACCESS DEDICATIONS

A. Required Overall Findings

(1) Written findings of fact, analysis and conclusions addressing public access must be included in support of all approvals, denials or conditional approvals of projects between the first public road and the sea. Written findings of fact, analysis and conclusions addressing public access must be included in support of all approvals or conditional approvals of where an access dedication is included in the project proposal or required as a condition of approval. Such findings shall address the applicable factors identified by Section ### of this Development Code and shall reflect the specific level of detail specified, as applicable. Findings supporting all such decisions shall include:

a. A statement of the individual and cumulative burdens imposed on public access and recreation opportunities based on applicable factors identified pursuant to Section ### of this Development Code. The type of affected public access and recreation opportunities shall be clearly described.

b. An analysis based on applicable factors identified in Section ### of this Development Code of the necessity for requiring public access conditions to find the project consistent with the public access provisions of the Coastal Act.

c. A description of the legitimate governmental interest furthered by any access condition required.

d. An explanation of how imposition of an access dedication requirement alleviates the access burdens identified and is reasonably related to those burdens in both nature and extent.

B. Required Project-Specific Findings

In determining any requirement for public access, including the type of access and character of use, the City shall evaluate and document in written findings the factors identified in subsections (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the City and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the dedication will alleviate or mitigate the adverse effects which have been identified and is reasonably related to those adverse effects in both nature and extent. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning requirements or regulations.

(a) Project effects on demand for access and recreation including:

- Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development;
- Analysis of the project's effects upon existing public access and recreation opportunities;
- Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative buildout;
- Projection of the anticipated demand and need for increased coastal access and recreation opportunities for the public;
- Analysis of the contribution of the project's cumulative effects to any such projected increase;

- Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas;
- Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities.

(b) Shoreline processes including:

- Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of existing or proposed shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site;
- Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development;
- Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity;
- Analysis of the effect of any identified changes of the project -- alone or in combination with other anticipated changes -will have upon the ability of the public to use public tidelands and shoreline recreation areas.

(c) Historic public use including:

- Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal);
- Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc. and for passive and/or active recreational use, etc. Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made;
- Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts;
- Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use).

(d) Physical obstructions including:

- Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline.

(e) Other adverse impacts on access and recreation including:

- Description of the development's physical proximity and relationship to the shoreline and any public recreation area;
- Analysis of the extent to which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation;
- Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.

3. Required Findings for Public Access Exceptions

Any determination that one of the exceptions of Section ### of this Development Code applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

(a) The type of access potentially applicable to the site involved (vertical, lateral, blufftop, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable.

(b) Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected.

(c) Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an accessway on the subject land.

18.56.080. REVIEW OF RECORDED ACCESS DOCUMENTS

1. Standards and Procedures

Upon final approval of a coastal development permit or other authorization for development, and where issuance of the permit or authorization is conditioned upon the applicant recording a legal document which restricts the use of real property or which offers to dedicate or grant an interest or easement in land for public use, a copy of the permit conditions, findings of approval and drafts of any legal documents proposed to implement the conditions shall be forwarded to the California Coastal Commission for review and approval prior to the issuance of the permit consistent with the following procedures and California Code of Regulations Section 13574:

All coastal development permits subject to conditions of approval pertaining to public access and open space or conservation easements shall be subject to the following procedures:

(a) The Executive Director of the Coastal Commission shall review and approve all legal documents specified in the conditions of approval of a coastal development permit for public access and conservation/open space easements.

(1) Upon completion of permit review by the City and prior to the issuance of the permit, the City shall forward a copy of the permit conditions and findings of approval and copies of the legal documents to the Executive Director of the Commission for review and approval of the legal adequacy and consistency with the requirements of potential accepting agencies;

(2) The Executive Director of the Commission shall have fifteen (15) working days from receipt of the documents in which to complete the review and notify the applicant of recommended revisions if any;

(3) The City may issue the permit upon expiration of the fifteen (15) working day period if notification of inadequacy has not been received by the City within that time period;

(4) If the Executive Director has recommended revisions to the applicant, the permit shall not be issued until the deficiencies have been resolved to the satisfaction of the executive director; or

(b) If the City requests, the Commission shall delegate the authority to process the recordation of the necessary legal documents to the City if the City identifies the City department that has the resources and authorization to accept, open and operate and maintain the accessways and open space/conservation areas required as a condition of approval of coastal development permits subject to the following: Upon completion of the recordation of the documents the City shall forward a copy of the permit conditions and findings of approval and copies of the legal documents pertaining to the public access and open space conditions to the Executive Director of the Commission.

18.56.090. CDP PERMITTING AND APPLICATION

In addition to permit and application submittal requirements established elsewhere in this LCP, new development pursuant to Section ### of this Development Code shall be subject to the following additional permit and/or application requirements:

1. In order to maximize public access and recreation opportunities at existing public beaches or parks, limitations on time of use or increases in use fees or parking fees, which effect the intensity of use, shall be subject to a Coastal Development Permit.

2. The City shall not close, abandon, or render unusable by the public any existing accessway which the City owns, operates, maintains, or is otherwise responsible for without first obtaining a Coastal Development Permit unless determined to be necessary for public safety.

3. Any limitation on existing public access to or along a beach, trail, or bluff located in a sensitive habitat area determined to be necessary for temporary protection of habitat, restoration, repair and/or maintenance shall be for the minimum period necessary but shall not exceed the nesting season for shorebird habitat or be greater than 90 days for habitat restoration or 30 days for repair and maintenance, and shall require a Coastal Development Permit. Any limitation for purposes of protecting or restoring habitat shall be subject to review and approval, where required, from the Department of Fish & Game and U.S. Fish and Wildlife. Access to or along public tidelands or areas subject to an accepted and opened Offer to Dedicate or grant of easement shall not be fully restricted.

4. No signs shall be posted on a beachfront or on public beach unless authorized by a Coastal Development Permit. Signs which purport to identify the boundary between State tidelands and private property or which indicate that public access to State tidelands or public lateral or vertical access easement areas is restricted shall not be permitted.

5. Improvements and/or opening of accessways already in public ownership or that are accepted pursuant to an offer to dedicate required by a Coastal Development Permit shall be permitted regardless of the distance from the nearest available vertical accessway.

6. All applications for new development located along the shoreline or fronting a beach shall include the submittal of a review and/or determination in writing from the State Lands Commission that addresses the proposed project relative to its location or proximity to, or impact upon, the boundary between public tidelands and private property. Any application for development on or along the shoreline filed without such determination shall be determined to be incomplete for filing.

7. Coastal Development Permit application filing requirements shall include the submittal of mapped documentation identifying the location of any existing recorded shoreline or inland trail OTDs, deed restrictions, or easements on the subject parcel(s).

Article 6
Site Development Regulations

ARTICLE 6

Site Development Regulations

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CHAPTER 18.60 - GRADING PERMIT REQUIREMENTS AND PROCEDURES

Sections:

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18.60.020 - Applicability of Grading Regulations
18.60.030 - Grading Permit Requirements
18.60.040 - Grading Permit Application Filing and Processing
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18.60.060 - Grading Permit Time Limits and Extensions
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18.60.080 - Grading Operations and Inspections
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18.60.010 - Title and Purpose

This Chapter and Chapter 18.62 (Grading, Erosion, and Sediment Control Standards) are and may be cited as the City of Fort Bragg Grading Ordinance. These provisions are enacted for the purpose of regulating grading within the City, and establish standards for grading, including filling and excavation activities, to:

A. Minimize hazards to life and property;

B. Protect against soil erosion, and the pollution of watercourses with nutrients, sediments, or other earthen materials generated on or caused by surface runoff on or across an area of approved grading;

C. Protect the safety, use and stability of public rights-of-way and drainage channels;

D. Protect fish and wildlife habitats, and promote the retention and restoration of riparian vegetation;

E. Protect the scenic character and value of the City; and

F. Ensure that the intended use of a graded site is consistent with the General Plan and any applicable specific plan.

18.60.020 - Applicability of Grading Regulations

A. **Compliance required.** The provisions of this Chapter and Chapter 18.62 (Grading, Erosion, and Sediment Control Standards) apply to all excavation, fill, or other grading activities occurring within the City, unless exempted from permit requirements by Section 18.60.030 (Grading Permit Requirements). The grading standards in Chapter 18.62 apply to all grading activities regardless of whether a permit is required. It shall be unlawful and a violation of this Development Code for any person to:

1. Cause, conduct, allow, or furnish equipment or any labor for any grading activities without first obtaining any planning permit required by this Development Code, and a grading permit when required by Section 18.60.030 (Grading Permit Requirements), and without complying with all applicable grading standards of Chapter 18.62 (Grading, Erosion, and Sediment Control Standards); or

2. Violate or fail to comply with any term or condition of the approval of any grading permit issued in compliance with this Chapter.

B. **Prior project approval required.** No grading permit shall be issued and no grading shall occur unless a development project has been first authorized on the site in compliance with Article 7 (Planning Permit Procedures), or Article 8 (Subdivision Regulations and Procedures).

C. **Liability.** Nothing in this Chapter, or the issuance of a grading permit, compliance with the provisions of this Chapter or with any permit conditions shall relieve any person from responsibility for damage to other persons or property, nor impose any liability upon the City, its officers, agents or employees, for damage to other persons or property.

D. **Hazards.** Whenever the City Engineer determines that excavations, embankments, or fills on private property constitute a hazard to public safety, endanger property, or adversely affect the safety, use or stability of adjacent property, an overhead or underground utility, or a public way, watercourse, or drainage channel, or could adversely affect the water quality or any water bodies or watercourses, the owner or other person in control of the subject property shall be contacted and advised of the problem. Upon receipt of written notice from the City Engineer, the property owner shall repair or eliminate the excavation, embankment or fill so as to eliminate the hazard and conform with the requirements of this Chapter and Chapter 18.62 (Grading, Erosion, and Sediment Control Standards) within a reasonably prescribed time period. Any grading performed in violation of this Section shall be deemed a public nuisance and a misdemeanor, and full abatement and restoration may be required and an assessment of cost may be levied in compliance with Chapter 18.98 (Enforcement and Penalties).

E. **Definitions.** Definitions of the technical terms and phrases used in this Chapter are in Article 10 (Glossary) under "grading."

18.60.030 - Grading Permit Requirements

A. **Permit required.** A grading permit shall be required for any of the following grading activities, except where exempted from permit requirements by Subsection C.

1. Any excavation or fill;

2. Dredging activities involving wetlands or riparian areas;

3. Earthwork, paving, surfacing or other construction that alters an existing drainage pattern of surface water leaving the site, including any change in the direction, velocity or volume of flow;

4. Grading within the Coastal Zone; or

5. Any other grading activity that causes quantities of dirt, soil, rock, debris, or other material substantially in excess of natural levels to be washed, eroded, or otherwise moved from the site, except in compliance with a grading permit.

B. **Grading designation.** Grading in excess of 5,000 cubic yards shall be performed in compliance with an approved grading plan prepared by a California registered civil engineer, and shall be designated "engineered grading." Grading involving less than 5,000 cubic yards shall be designated "regular grading" unless the permittee chooses to have the grading performed as engineered grading, or the City Engineer determines that special conditions or unusual hazards exist, in which case grading shall conform to the requirements for engineered grading.

C. **Exemptions from permit requirements.** Except when located within the Coastal Zone, the following grading activities are exempt from the provisions of this Section and may be conducted without first obtaining a grading permit; provided that all grading shall still be subject to the grading standards of Chapter 18.62 (Grading, Erosion, and Sediment Control Standards), and no exempt grading shall occur until the property owner has obtained a written exemption from the Department.

1. **Basements and footings.** Where authorized by a valid building permit, excavations below existing or finish grade for basements, and footings of a building, retaining walls or other structures; provided that this shall not exempt any fill using material from the excavation, nor exempt any excavation where the natural slope of the site exceeds 20 percent, or any excavation with an unsupported height greater than five feet after the completion of the structure.

2. **Cemeteries.** Routine excavations and fills for graves.

3. **Conservation project.** Grading that is a soil or water conservation project regulated by the U.S. Department of Agriculture, Natural Resource Conservation Service, or the California Department of Water Resources.

4. **Cultivation.** Agricultural cultivation activities where allowed by Article 2 (Zoning Districts and Allowable Land Uses) including preparation of land for cultivation, other than grading for roadwork or pads for structures, and not including any tree removal, where the cultivation activities do not create an excavation greater than two feet in depth, or more than one foot of fill.

5. **Exploratory excavation.** An exploratory excavation for the purpose of investigating subsurface geology, soil bearing capacity, etc., affecting or disturbing an area on a single parcel of less than 10,000 square feet and involving the movement of less than 50 cubic yards, under the direction of a soil engineer or engineering geologist.

6. **Minor excavation.** An excavation less than two feet in total depth; or that does not create a cut slope greater than five feet in height and steeper than one and one-half horizontal to one vertical, and is:

   a. Not proposed where the natural slope of the site exceeds 20 percent;

   b. Less than 50 cubic yards; and

   c. Not less than 100 feet from any drainage course.

7. **Minor fill.** A fill less than one foot in total depth and placed on natural terrain with a slope flatter than five horizontal to one vertical, or less than three feet in depth, not intended to support structures, which does not exceed 50 cubic yards, and is not less than 100 feet from any drainage course.

8. **Public project.** Excavations or fill for a public project conducted, or approved and inspected by the City Engineer.

9. **Road maintenance.** The grading or resurfacing of an existing, approved road for maintenance purposes, where neither the width nor length of the road, nor the height of cuts or the depth of fills is increased.

10. **Wells, pipelines and utilities.** Excavations for wells and tunnels; routine pipeline maintenance practices disturbing areas less than 1,000 square feet; or installation, testing, placement in service, or the replacement of any necessary utility connection between an existing facility and an individual customer or approved development, for utilities regulated by the Public Utilities Commission, including electrical, water, sewage disposal or natural gas lines, on a single site or within a public right-of-way.

D. **Other permits may be required.** Nothing in this Chapter shall eliminate the need for activities involving grading to also obtain any other planning or construction permits, subdivision approvals, or permits or authorizations required by the Municipal Code, other provisions of this Development Code, or required by State or Federal agencies.

E. **Issuance of other City permits.** All City departments, officials and employees that are vested with the duty or responsibility to issue permits or licenses shall conform to the provisions of this Chapter and shall issue no permit or license for uses, structures or purposes where they would be in conflict with the provisions of this Chapter, or for a site where a violation of this Chapter exists.

F. **Underground service alert required.** Any excavation or grading requires notification of Underground Service Alert (USA) 48 hours prior to commencement of work or documentation that which verifies all underground utility locations in the project area.

18.60.040 - Grading Permit Application Filing and Processing

A. **Preparation and filing.** Grading permit applications shall be filed with the Department on a City application form, together with all fees, plans, maps, reports, and other information prepared as required by the *Grading Permit Application Preparation and Contents* instruction list provided by the Department. The plans and reports submitted with the application shall include, but not be limited to, the following, where required by the City Engineer.

1. A grading plan.

2. A drainage plan with hydrology and hydraulic calculations.

3. A geotechnical investigation where the potential for seismically induced soil liquefaction and soil instability is present. When the following conditions are discovered during the course of an investigation, the geotechnical report shall address the potential for liquefaction:

   a. Shallow groundwater, 50 feet or less; and

   b. Unconsolidated sandy alluvium.

4. A Runoff Mitigation Plan (see Section 18.64.040 (~~Urban~~ Runoff Mitigation Plan Requirements));

5. Any special reports (e.g., compaction, geotechnical, soils, etc.) required by the City Engineer.

The preparation of Grading Permit applications shall also comply with the provisions of Sections 18.70.040 (Application Preparation and Filing), and 18.70.050 (Application Fees).

B. **Environmental review.** As required by the California Environmental Quality Act (CEQA), all grading permit applications shall be subject to environmental review in compliance with this Section and Chapter 18.72, except the following types of applications:

1. **Categorically exempt projects.** As provided by Section 15304, Title 14, California Code of Regulations, for Class 4 categorical exemptions, any grading on land with a slope of less than 10 percent, that is not within 100 feet of a watercourse, wetland or environmentally sensitive habitat, or is not visible from Highway 1.

2. **Ministerial projects.** It is the intent of the Council that the issuance of a permit for grading (Section 18.60.050 - Grading Permit Approval and Issuance) that would be categorically exempt as provided by Subsection B.1, and which also involves less than 1,500 cubic yards of earth moving on slopes less than 10 percent, shall be a ministerial act in compliance with Section 15268, Title 14, California Code of Regulations, and for these applications this Chapter shall be interpreted, administered and construed in light of this legislative intent.

3. **Previously reviewed projects.** Proposed grading that has already been reviewed in compliance with CEQA as part of the approval of a planning permit required by this Development Code or a subdivision in compliance with Article 8 of this Development Code, shall not require environmental review.

Measures needed to mitigate potentially significant adverse environmental impacts shall be incorporated into the grading permit as conditions of approval.

C. **Referral to other agencies.** Before approval of a grading permit application in compliance with Section 18.60.050 (Grading Permit Approval and Issuance) the City Engineer may refer an application to other interested public agencies for their comments and recommendations.

18.60.050 - Grading Permit Approval and Issuance

The approval of a grading permit application and issuance of a grading permit by the City Engineer shall occur as follows:

A. **Criteria for approval.** The City Engineer may approve a grading permit application and issue a permit only when the following requirements are first satisfied:

1. **Ministerial projects.** Ministerial grading projects as described in Section 18.60.040B shall be approved when the City Engineer determines that proposed grading will comply with the following:

a. The proposed grading shall comply with all applicable provisions of Chapter 18.62 (Grading, Erosion, and Sediment Control Standards), 18.64 (Urban Runoff Pollution Control), and all other applicable provisions of this Development Code;

b. The project for which the grading is intended shall first be authorized a planning permit as required for the proposed use by Article 2 (Zoning Districts and Allowable Land Uses); and

c. Any permits required by State or Federal agencies for the proposed grading have been obtained (including streambed alteration permits from the California Department of Fish and Game and "Section 404" permits for grading within wetlands and certain watercourses from the U.S. Army Corps of Engineers), or are required by conditions of approval to be obtained before grading work is started.

d. The proposed grading either will not adversely impact an existing public or private easement, or the applicant has obtained the written consent of the easement holder to perform the grading within the easement.

e. Proposed grading that will disturb a surface area of one acre or more of soil shall require the filing of a Notice of Intent (NOI) with the State Water Resources Control Board for coverage under the State NPDES Construction Permit. A copy of the NOI and the receipt of notice from the State with a Waste Discharge Identification Number (WDID) shall be filed with the Department.

2. **Discretionary projects.** Grading projects that are not ministerial or categorically exempt as provided by Section 18.60.040.B (Environmental review) may be approved only when the City Engineer first makes the following findings, in addition to determining that the proposed grading will satisfy the requirements of Subsection A.1, above:

a. The proposed grading conforms with all applicable provisions of the General Plan, any applicable specific plan, and this Development Code;

b. The extent and nature of proposed grading is appropriate to the use proposed, and will not create site disturbance to an extent greater than that required for the use;

c. Proposed grading will not result in erosion, stream sediment, or other adverse off-site effects or hazards to life or property; and

d. The proposed grading will not create substantial adverse long-term visual effects visible from off-site.

B. **Permit conditions.** In granting a grading permit for a discretionary grading project, the City Engineer may impose any condition determined to be necessary to protect public health, safety and welfare, to prevent the creation of hazards to property, and to ensure proper completion of grading. These conditions may include, but shall not be limited to requirements for:

1. Bringing proposed grading into conformity with the provisions of this Development Code, including the findings required by Subsection A.;

2. Mitigation of adverse environmental impacts identified through the environmental review process;

3. Improvement of any existing grading on the site to comply with the standards of this Chapter;

4. Fencing or other protection of grading that would otherwise be hazardous;

5. The control of dust, erosion, sediment, noise, hours of operation and season of work, weather conditions, sequence of work, access roads and haul routes;

6. Safeguarding both natural and constructed watercourses from excessive deposition of sediment or debris in quantities exceeding natural levels, and from the removal of riparian vegetation or the destruction of animal habitats or other sensitive environmental features;

7. Safeguarding or abandoning any areas reserved for on-site sewage disposal;

8. Assurance that any area of proposed grading where habitable structures are proposed is not subject to hazards of landslide, significant settlement or erosion, and that the hazards of flooding can be eliminated or adequately reduced;

9. Safeguarding or abandoning existing water wells;

10. Limitations on the commencement of grading until any permits required by State or Federal agencies are first obtained and copies are submitted to the City Engineer;

11. The stockpiling and re-use of topsoil.

12. An encroachment permit prior to any grading being performed within a public easement.

13. Written notice to all easement holders in the event of grading within a private easement.

14. **Proposed grading activities that will disturb a surface area of one acre or more of soil shall obtain a valid Air Quality Management District permit for the grading activity.** ***[CITY REQUESTED MOD]***

C. **Effect of permit and approved plans:**

1. **Compliance with plans required.** All work shall be done in compliance with the approved plans. The grading plans and specifications approved by the issuance of a grading permit shall not be changed without the written approval of the City Engineer.

2. **Modifications.** Proposed modifications shall be submitted to the City Engineer in writing, together with all necessary soils and geotechnical information and design details. A proposed modification shall be approved

only if the City Engineer first determines that the modification is in compliance with all applicable subdivision and/or planning permit requirements.

D. **Distribution and use of approved plans.** Two sets of approved plans and specifications shall be retained by the City Engineer and one or more sets of approved and dated plan and specifications shall be provided to the applicant or their engineer. One set of approved plans and the permit shall be retained on the site at all times during the work.

18.60.060 - Grading Permit Time Limits and Extensions

A. **Grading permit time limits.** Approved grading shall be completed in compliance with an issued grading permit within 12 months from the effective date of the permit, or the permit shall expire, unless an extension has been granted in writing in compliance with Subsection B., below.

B. **Extension of grading permit.** Any permittee holding an unexpired grading permit may apply for an extension of the time within which grading operations are to be begun or completed. The City Engineer may extend the expiration date of the permit for a period not exceeding 180 days per extension request, where the permittee has requested the extension in writing and has shown that circumstances beyond the control of the permittee have prevented grading from being started or completed, and any applicable permit has not expired.

18.60.070 - Security for Performance

Prior to issuance of a grading permit, the applicant shall provide improvement security in a manner satisfactory to the City, to ensure proper completion of grading in compliance with the permit, in the event of default on the part of the permittee. Security shall be required and administered in compliance with Section 18.76.060 (Performance Guarantees).

18.60.080 - Grading Operations and Inspections

All grading operations for which a permit is required shall be subject to inspection as required by the City Engineer to ensure compliance with the approved plans and any permit conditions.

A. **Preconstruction consultation.** The City Engineer may require a preconstruction consultation meeting between the permittee and designated City staff to review the construction schedule and procedures before the commencement of work, where the City Engineer determines that the type or scale or grading operations necessitates this coordination.

B. **Site access.** The permittee shall provide adequate access to the site for inspection by inspectors designated by the City Engineer during the performance of all work and for a minimum of one year after final inspection.

C. **Special inspections and certifications.** The City Engineer may require special inspections or certifications as deemed necessary to ensure proper completion of grading work, and/or to mitigate or avoid environmental impacts, or hazards to property or the public.

1. **Type of inspections and certifications.** Special inspections and certifications may include, but shall not be limited to requiring: the permittee to provide a private geotechnical engineer and/or other consultants approved by the City Engineer to perform continuous inspection of work in progress and to certify the proper completion of work; inspection and testing by an approved testing agency; and/or the submittal of periodic progress reports.

2. **Notification of noncompliance.** Where the use of special inspectors, engineers or consultants is required, these personnel shall immediately report in writing to the City Engineer and permittee any instance of work not being done in compliance with this Development Code, other applicable codes, or the approved grading plans, and shall also provide recommendations for corrective measures, if determined by the inspector to be necessary.

3. **Transfer of responsibility for approval.** If a required special inspector, engineer or consultant is changed during the course of work, the work shall be stopped until the replacement individual has notified the City Engineer in writing of their agreement to accept responsibility for approval of the completed work within the area of their technical competence.

D. **Inclement weather.** The City Engineer may require that grading operations and project designs be modified if delays occur that result in weather-generated problems not considered at the time the permit was issued.

E. **Field changes.** After the commencement of grading operations, no change to the extent, volume, or type of proposed grading shall occur without the prior written approval of the City Engineer, or the Planning Commission or City Council in the case of a project which received planning permit approval from the Planning Commission or City Council. In the event a permittee wishes to change the volume (cubic yards), cut or fill height of grading in the approved permit, an amendment to the permit shall be obtained. If the City Engineer determines that the changes are significant, the City Engineer may require that work shall stop, and an amendment to the approved permit shall be filed and approved before work is resumed.

F. **Stop work orders.** The City Engineer may order that any grading operations performed contrary to the requirements of this Development Code, other applicable codes, the approved plans and specifications, or any permit conditions, or any grading operations that have otherwise become hazardous to property or the public, be immediately stopped. It shall be unlawful and a violation of this Development Code for any person to resume grading operations that were ordered to be stopped by the City Engineer, unless the City Engineer has first required and the permittee has agreed to any necessary corrective measures, and the City Engineer has authorized resumption of work in writing. A violation of a stop work order shall be punishable in compliance with Section 18.98.040.D (Stop Work Orders).

G. **Other responsibilities of permittee.** The permittee shall also be responsible for the following:

1. **Protection of utilities.** The prevention of damage to any public utility facilities. As required by Government Code Section 4216.2, each permittee shall contact the Underground Service Alert (USA) prior to starting work. Contact shall occur at least two working days, but not more than fourteen calendar days before work starts. If feasible, the excavator shall delineate with white paint, or other suitable markings, the area to be excavated.

2. **Protection of adjacent property.** The prevention of damage to adjacent property. No person shall excavate on land close enough to a property line to endanger any adjacent public street, sidewalk, alley, other public or private property, or easement, without supporting and protecting the property from any damage that might result from grading operations.

3. **Advance notice.** The permittee shall notify the City Engineer at least 48 hours before starting any work under an approved permit where no preconstruction consultation was required in compliance with Subsection A. above.

4. **Erosion and sediment control.** The permittee shall prevent discharge of sediment from the site in quantities greater than before the grading occurred, to any watercourse, drainage system, or adjacent property and to protect watercourses and adjacent properties from damage by erosion, flooding, or deposition that may result from the permitted grading.

18.60.090 - Completion of Work

A. **Final reports.** Upon completion of rough grading and at the completion of finish grading work as determined by the City Engineer, the City Engineer may require the following plans and reports, supplements thereto, or other documentation deemed necessary by the City Engineer, prepared by the appropriate professionals in the format required by the City Engineer.

1. **As-built grading plan.** A plan including original ground surface elevations, as- graded ground surface elevations, lot drainage patterns with directional arrows, and locations and elevations of all surface and subsurface drainage facilities.

2. **Testing records.** A complete record of all field and laboratory tests, including the location and elevation of all field tests.

3. **Professional opinions.** Professional opinions regarding slope stability, soil bearing capacity, and any other information pertinent to the adequacy of the site for its intended use.

4. **Development recommendations.** Recommendations regarding foundation design, including soil bearing potential, and building restrictions or setbacks from the top or toe of slopes.

5. **Declarations about completed work.** Declarations by the special inspectors, a civil engineer, geotechnical engineer, geologist, soils engineer, and other consultants required by the City Engineer in compliance with Section 18.60.080.C, that all work was done in substantial compliance with the recommendations contained in the soil or geology reports as approved, and in compliance with the approved plans and specifications.

B. **Final inspection.** No permittee shall be deemed to have complied with the provisions of this Chapter until a final inspection of the work has been completed and approved by the City Engineer. The permittee shall notify the City Engineer when the grading operation is ready for final inspection. Final approval shall not be given until all work, including the installation of all drainage facilities and their protective devices, and all erosion and sediment control measures, have been completed in compliance with the approved plans and specifications, and all reports required by Subsection A. have been submitted.

CHAPTER 18.62 - GRADING, EROSION, AND SEDIMENT CONTROL STANDARDS

Sections:

18.62.010 - Purpose and Applicability
18.62.020 - Dust Prevention and Control
18.62.030 - Erosion and Sediment Control
18.62.030 - Excavations and Fills
18.62.050 - Grading During the Rainy Season
18.62.060 - Removal of Native Vegetation
18.62.070 - Revegetation and Slope Surface Stabilization
18.62.080 - Protection of Watercourses
18.62.090 - Setbacks for Cut and Fill Slopes
18.62.100 - Storm Drainage and Runoff

18.62.010 - Purpose and Applicability

A. **Purpose and applicability.** This Chapter provides standards for the proper conduct of grading operations, as well as site development activities not involving grading permits. All grading operations, regardless of size, shall be conducted in a manner consistent with the requirements of this Chapter, regardless of whether a grading permit is required by Section 18.60.030 (Grading Permit Requirements).

B. **Definitions.** Definitions of the technical terms and phrases used in this Chapter are in Article 10 (Glossary) under "Grading."

18.62.020 - Dust Prevention and Control

A. **Applicability.** To protect the health, safety, and general welfare, the permittee shall make all reasonable efforts to prevent or control blowing dust and debris from the construction site.

1. Property owners shall be responsible for maintaining their property in such a manner that dust and other wind borne debris transported to adjacent properties are kept to reasonable minimal levels.

2. In the case of site grading and other construction operations, it will also be the responsibility of the permittee to make all reasonable efforts to control blowing dust and debris onto adjacent properties.

3. When grading operations involve the hauling of dirt from one site to another, it is also the permittee's responsibility to maintain the Public streets in a clean condition and limit any spillage which would generate dust or other blowing debris.

B. **Dust prevention and control plan.** A Dust Prevention and Control Plan shall be submitted in conjunction with a grading plan or other plan involving the movement of dirt. The City Engineer may also require the submittal of a Dust Prevention and Control Plan for other development deemed necessary.

1. **Plan content.** The plan shall demonstrate that the discharge of dust from the construction site will not occur, or can be controlled to an acceptable level depending on the particular site conditions and circumstances.

a. The plan shall address site conditions during construction operations, after normal working hours, and during various phases of construction.

b. The plan shall include the name and the 24 hour phone number of a responsible party in case of emergency.

c. If the importing or exporting of dirt is necessary as demonstrated by the cut and fill quantities on the grading plan, the plan shall also include the procedures necessary to keep the public streets and private properties along the haul route free of dirt, dust, and other debris.

d. When an entire project is to be graded and the subsequent construction on the site is to be completed in phases, the portion of the site not under construction shall be treated with dust preventive substance or plant materials and an irrigation system.

e. All phased projects shall submit a plan demonstrating that dust will not be generated from future phase areas.

2. **Review and use of plan.** The City Engineer shall be responsible for the review and approval of the Dust Prevention and Control Plan. The plan shall be incorporated into the grading plan and constructive notice shall be placed on the grading plan to notify the owner and contractors of the need to comply with the Dust Prevention and Control Plan.

C. **Inadequate dust prevention and control measures.** In the event that inadequate dust prevention and control measures are provided by the permittee, the City may respond as follows.

1. **Site investigation.** If an investigation of the project site indicates that dust prevention and control measures are inadequate, the City Engineer may limit or halt all activities on the site until adequate dust prevention and control measures are achieved. The City Engineer may charge the property owner and /or contractor for reasonable costs related to providing the necessary site inspections to determine the adequacy of the dust control plan.

2. **Time for compliance, enforcement.** If it is determined that a property is in violation of this Section, the property owner and/or contractor will have 24 hours to bring the site into compliance. If after 24 hours, the site is not brought into compliance or an extension of time has not been granted by the City Engineer, the Building Official may, at any time thereafter, determine the site to be a public nuisance and serve a written notice of violation. The City Engineer may then enter the property for the purposes of installing, by City forces or by other means, adequate dust prevention and control measures (the cost of which shall be borne by the property owner), or the City Engineer may cause the owner of the site to be prosecuted as a violator of this Development Code, or the City Engineer may take both actions.

3. **Responsibility for adequate dust prevention and control.** The approval of a Dust Prevention and Control Plan does not relieve the owner or contractors of the responsibility to implement whatever additional measures may be required by the City Engineer to properly prevent and control dust.

D. **Compliance with NPDES stormwater regulations.** The Dust Prevention and Control Plan and any additional measures that may be necessary for the adequate prevention and control of dust shall comply with the NPDES Stormwater Regulations as adopted by the City.

18.62.030 - Erosion, ~~and~~ Sediment, and Other Construction Pollution Control

~~Drainage improvements for site runoff, including runoff from all roadways and other impervious surfaces, shall be engineered to minimize erosion through the appropriate use of rocked culvert inlets and outfalls, energy dissipators, check dams, cribbing, riprap, proper location of culverts, revegetation of exposed slopes (see Section 18.62.070), and minimizing the use of artificial slopes. Erosion and sediment shall be controlled as provided by this Section.~~

Erosion, ~~and~~ sediment, **and other polluted runoff generated during construction** shall be controlled **by temporary construction-phase Best Management Practices (BMPs)** as provided by this Section.

A. **Best M~~m~~anagement P~~p~~ractices for projects under construction.** The following Best Management Practices which address the problem of ~~urban~~ **polluted** runoff **from construction sites** shall apply to all development and proposed land uses. The following requirements shall apply at the time of demolition of an existing structure or commencement of construction and until receipt of a Certificate of Occupancy.

1. **Minimize Runoff and Pollution ~~prohibited~~ from Construction. All development shall minimize construction site runoff and erosion, and eliminate the discharge of sediment and other stormwater pollution resulting from construction activities (e.g., chemicals, vehicle fluids, concrete truck wash-out, and litter), to the extent feasible, through implementation of Best Management Practices.** ~~Runoff~~, S~~s~~ediment and construction waste from construction sites and parking areas shall not leave the site.

2. **Minimize Land Disturbance During Construction. Land disturbance activities during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, to the extent feasible, to avoid increased erosion and sedimentation. Soil compaction due to construction activities shall be minimized, to the extent feasible, to retain the natural stormwater infiltration capacity of the soil.**

3. **Minimize Disturbance of Natural Vegetation. Construction shall minimize the disturbance of natural vegetation (including significant trees, native vegetation, and root structures), which are important for preventing erosion and sedimentation.**

4 ~~2.~~ **Grading during the rainy season. Grading is prohibited during the rainy season (from November 1 to March 30), except in response to emergencies, unless the City Engineer determines that soil conditions at the project site are suitable, and adequate erosion and sedimentation control measures will be in place during all grading operations.** Should grading be permitted during the rainy season (see Section 18.62.050), the smallest practicable area of erodible land shall be exposed at any one time during grading operations and the time of exposure shall be minimized.

5 ~~3.~~ **Slope surface stabilization.** Temporary mulching, seeding, or other suitable **soil** stabilization measures approved by the City Engineer shall be used to protect exposed erodible areas during construction. **Soil stabilization BMPs shall be implemented on graded or disturbed areas as soon as feasible.** Earth or paved interceptors and diversions shall be installed at the top of cut or fill slopes where there is a potential for erosive surface runoff.

6 ~~4.~~ **Use of plastic covering.** On an emergency basis only, plastic covering may be utilized to prevent erosion of an otherwise unprotected area, along with runoff devices to intercept and safely convey the runoff.

7 ~~5.~~ **Placement of excavated soil.** Excavated soil shall be located on the site in a manner that eliminates the possibility of sediments running into the street, adjoining properties, and/or storm drain facilities and waterways. Soil piles shall be covered and contained until the soil is either used or removed.

8 ~~6.~~ **Removal of off-site sediments.** Any sediments or other materials which are tracked off the site shall be removed the same day as they are tracked off the site. Where determined necessary by the City Engineer, a

temporary sediment barrier shall be installed. Removal shall be by scraping, collecting, and properly disposing of debris. Street washing is prohibited unless performed in the presence of a City Inspector.

9~~7~~. **Prohibition against washing construction vehicles.** No washing of construction or other industrial vehicles shall be allowed adjacent to a construction site. No runoff from washing vehicles on the construction site shall be allowed to leave the site.

10~~8~~. **Erosion control devices.** In order to prevent polluting sediment discharges, erosion and sediment control devices shall be installed as required by the City Engineer for all grading and filling. Control devices and measures that may be required include, but are not limited to energy absorbing structures or devices to reduce the velocity of runoff water, detention ponds, sediment ponds, or infiltration pits, or downdrains, chutes or flumes.

B. **Final erosion control measures.** ~~Within 30 days after completion of grading, and no later than~~ **All disturbed areas shall be stabilized prior to October 15th, or as soon thereafter as feasible, and in all cases before** November 1, to provide sufficient time for seed germination prior to the rainy season. **All** ~~all~~ surfaces disturbed by vegetation removal, grading, haul roads, or other construction activity that alters natural vegetative cover, shall be revegetated to control erosion as provided by Section 18.62.070 (Revegetation and Slope Surface Stabilization) unless covered with impervious or other improved surfaces authorized by approved plans. Erosion controls may include any combination of mechanical, chemical, or vegetative measures, including those described in USDA Soil Conservation Service Bulletin 347.

18.62.040 - Excavations and Fills

A. **General standards.** All excavations and fills shall be designed and constructed in compliance with the following standards.

1. **Area of cuts and fills.** Cuts and fills shall be limited to the minimum amount necessary to provide stable embankments for required parking areas or street rights-of-way, structural foundations, and adequate residential yard area or outdoor storage or sales area incidental to a non-residential use.

2. **Retention of natural features.** Grading operations shall be designed and conducted to maximize retention of natural land forms and features (e.g., rolling hills, ridgetops, areas of extensive vegetation, watercourses, etc.).

3. **Final contours.** Contours, elevations and shapes of finished surfaces shall be blended with adjacent natural terrain to achieve a consistent grade and natural appearance.

   a. Borders of cut slopes and fills shall be rounded off to a minimum radius of five feet to blend with the natural terrain. Large flat planes or sharp angles at intersections with natural terrain shall be prohibited.

   b. Manufactured slopes in excess of five feet in height and/or 200 feet in length, shall be landform graded, with a variety of slope ratios applied to the cut or fill slopes.

   c. For individually developed lots, all cut or fill slopes shall be landform graded when a building pad area is more than 4,500 square feet, or when the total graded area of the lot is more than 9,000 square feet. The maximum allowed slope shall be determined for cuts and fills by Subsections B. and C. of this Section.

4. **Archeological resources.** In the event archeological resources are unearthed or discovered during any construction activities, construction activities shall cease, the Department shall be notified, and the proper disposition of resources shall be accomplished as required by Section 18.50.030 (Archaeological Resource Preservation).

B. **Standards for excavations.** Cuts shall be designed and constructed consistent with the following provisions, except where approved soils engineering and/or engineering geology reports recommend other standards, and except where the City Engineer waives these standards for minor cuts not intended to support structures.

1. **Slope.** The slope of permanent cut surfaces shall be no steeper than is safe for the intended use, but in no event more than two feet horizontal to one vertical.

2. **Drainage and terracing.** Drainage and terracing of cuts shall be provided as required by Subsection D.

C. **Standards for fills.** Fills shall be designed and constructed consistent with the following provisions, except where an approved soils engineering report recommends other standards, and except where the City Engineer waives these standards for minor fills not intended to support structures.

1. **Fill location.** Fill slopes shall not be constructed on natural slopes steeper than two feet horizontal to one foot vertical.

2. **Preparation of ground.** The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials, scarifying to provide a bond with the new fill, and where slopes are steeper than five to one and the height is greater than five feet, by benching into sound bedrock or other competent material as determined by a soils engineer. The bench under the toe of a fill slope steeper than five to one shall be at least 10 feet wide. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. When fill is to be placed over a cut, the bench under the toe of fill shall be at least 10 feet wide but the cut shall be made before placing the fill and acceptance by the soils engineer or engineering geologist or both as a suitable foundation for fill.

3. **Fill material.** Detrimental amounts of organic material shall not be permitted in fills. No rock or similar irreducible material with a maximum dimension greater than 12 inches shall be buried or placed in fills, except where the City Engineer allows the placement of larger rock when the soils engineer devises a proper method of placement, continuously inspects its placement, and approves fill stability, subject also to the following requirements:

   a. Potential rock disposal areas shall be shown on the grading plan.

   b. Rock sizes greater than 12 inches in maximum dimension shall be placed 10 feet or more below grade, measured vertically.

   c. Rocks shall be placed so as to ensure filling all voids with fines.

4. **Fill placement.** Fills shall be constructed in layers. The loose thickness of each layer of fill material before compaction shall not exceed eight inches. Completed fills shall be stable masses of well-integrated material bonded to adjacent materials and to the materials on which they rest. Fills shall be competent to support anticipated loads and be stable at the design slopes shown on the plans.

5. **Depth of fill.** The depth of fill from the substructure to finished grade across a building pad shall not exceed that specifically recommended by the geotechnical engineer.

6. **Compaction.** All fills shall be compacted to a minimum of 90 percent of maximum density in compliance with the Uniform Building Code, or as determined by a soils or geotechnical engineer. In-place density shall be determined in compliance with the Uniform Building Code.

7. **Slope.** The slope of permanent fill surfaces shall be no steeper than is safe for the intended use, but in no event more than two feet horizontal to one vertical.

8. **Drainage and terracing.** Drainage and terracing of fills shall be provided as required by Subsection D. of this Section.

D. **Drainage, and terracing of cuts and fills.** Proper drainage and terracing of cuts and fills shall be constructed as follows, to ensure the continuing integrity of fills. The following requirements apply only to cuts and fills with surface slopes steeper than three feet horizontal to one vertical, except where otherwise required on approved grading plans by the City Engineer. Additional standards applicable to the provision of storm drainage facilities as part of grading projects are established by Section 18.62.100 (Storm Drainage and Runoff).

1. **Terraces.** Terraces at least six feet in width shall be established at not more than 30-foot vertical intervals on all cut or fill slopes to control surface drainage and debris, except that where only one terrace is required, it shall be at midheight.

   a. For all cut or fill slopes greater than 60 feet and up to 120 feet in vertical height, one terrace at approximately midheight shall be 12 feet in width. Terrace widths and spacing for cut and fill slopes

greater than 120 feet in height shall be designed by the civil engineer and approved by the City Engineer. Suitable access shall be provided to permit proper cleaning and maintenance.

b. Swales or ditches on terraces shall:

(1) Have a minimum gradient of five percent;

(2) Be paved with reinforced concrete not less than three inches in thickness or an approved equal paving; and

(3) Have a minimum depth at the deepest point of one foot and a minimum paved width of five feet.

c. A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (projected) without discharging into a down drain.

2. **Subsurface drainage.** Cut and fill slopes shall be provided with subsurface drainage as necessary for stability.

3. **Disposal.** All drainage facilities shall be designed to carry waters to the nearest practicable drainage way approved by the City Engineer and/or other appropriate jurisdiction as a safe place to deposit the waters. Erosion of ground in the area of discharge shall be prevented by installation of nonerosive downdrains or other approved devices.

4. **Building pad drainage.** Building pads shall have a drainage gradient of two percent toward approved drainage facilities.

5. **Interceptor drains.** Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes towards the cut and has a drainage path greater than 40 feet measured horizontally. Interceptor drains shall be paved with a minimum of three inches of concrete or gunite and reinforced. They shall have a minimum depth of 12 inches and a minimum paved width of 30 inches measured horizontally across the drain. The slope of the drain shall be approved by the City Engineer.

6. **Drainage facility design.** Non-undergrounded drainage facilities shall be designed with integral color (e.g., muted earth tones, etc.) and materials (e.g., rock, landscaping, etc.) to minimize visibility. Downdrains on highly visible slopes shall be installed underground.

E. **Protection of adjacent property.** Footings that may be affected by any excavation shall be underpinned or otherwise protected against settlement and shall be protected against lateral movement. Fills or other surcharge loads shall not be placed adjacent to any building or structure unless the building or structure is capable of withstanding the additional loads caused by the fill or surcharge. The rights of adjacent affected property owners shall be as set forth in Section 832 of the California Civil Code.

18.62.050 - Grading During the Rainy Season

Grading may only be permitted during the period from November 1 through March 30 if the City Engineer determines that soil conditions at the site are suitable, and adequate and effective erosion and sediment control measures will be in place during all grading operations.

18.62.060 - Removal of Native Vegetation

Grading shall be designed and grading operations shall be conducted to minimize the removal or disturbance of native vegetation to the maximum extent feasible.

A. Trees not approved for removal in the grading permit shall be protected from damage by proper grading techniques, and by fencing, and conducting no grading or heavy equipment operations within the protected zone of the tree.

B. The limits of grading shall be clearly defined and marked to prevent damage to native vegetation by grading or construction equipment.

C. All trees to be removed and retained, and all markings and protective devices shall be inspected and approved by the Department prior to the commencement of grading operations.

18.62.070 - Revegetation and Slope Surface Stabilization

Where natural vegetation has been removed through grading in areas that are not to be occupied by structures, the areas shall be replanted in compliance with the approved revegetation plan and this Section to prevent erosion after construction is completed.

A. **Preparation for revegetation.** Topsoil removed from the surface in preparation for grading and construction shall be stored on or near the site and protected from erosion while grading operations are underway, provided that topsoil storage shall not be located where it would cause suffocation of root systems of trees intended to be preserved. After completion of grading, topsoil shall be restored to exposed cut and fill embankments or areas around building pads to provide a suitable base for seeding and planting.

B. **Methods of revegetation.** Acceptable methods of revegetation include hydro- mulching, or the planting of native plant materials with equivalent germination rates. Where lawn or turf grass is to be established, lawn grass seed or other appropriate landscape cover shall be sown at not less than four pounds to each 1,000 square feet of land area. Other revegetation methods offering equivalent protection may be approved by the City Engineer. Plant materials shall be watered at intervals sufficient to ensure survival and growth. The use of drought tolerant, fire resistive native plant materials are encouraged.

C. **Timing of revegetation measures.** Revegetation for the purpose of erosion and sediment control (Section 18.62.030) shall be installed within 30 days after completion of grading on all surfaces disturbed by vegetation removal, grading, haul roads, or other construction activity that alters natural vegetative cover. Other permanent revegetation or landscaping should begin on the construction site as soon as practical and shall begin no later than six months after achieving final grades and utility emplacements. All revegetation shall occur prior to October 1, **or as soon thereafter as practical and, in all cases, before November 1st,** to provide sufficient time for seed germination prior to the rainy season. **[*CITY REQUESTED MOD*]**

18.62.080 - Protection of Watercourses

Grading, dredging or diking shall not alter any intermittent or perennial stream, or natural body of water, except as permitted through approval of a grading permit in compliance with this Article, any planning permits required by this Development Code, and any necessary permits from the California Department of Fish and Game, Army Corps of Engineers, and Regional Water Quality Control Board (for example, a Section 1601-1603 permit from the Department of Fish and Game, a Section 404 permit from the Army Corps, and/or a Notice of Intent and Waste Discharge Permit from the Water Quality Control Board, etc.).

A. **Protection standards.** Grading operations within, adjacent to or involving the alteration of watercourses shall be conducted as follows:

1. The flood carrying capacity of any altered or relocated portion of a watercourse shall be maintained.

2. Watercourses shall not be obstructed unless an alternate drainage facility is approved.

3. Fills placed within watercourses shall have suitable protection against erosion during flooding.

4. Grading equipment shall not cross or disturb channels containing live streams without ~~silt and sediment control measures approved by the City Engineer in place~~ **appropriate permits from State Department of Fish and Game and other relevant resources agencies.**

5. Excavated materials shall not be deposited or stored in or adjacent to a watercourse where the materials can be washed away by high water or storm runoff.

B. **Required agency notification.** Where the alteration of a watercourse is proposed or allowed within an area determined by the City Engineer to be subject to flooding, any responsible agency shall be notified prior to any alteration or relocation of a watercourse, and evidence of the notification shall be submitted to the Federal Insurance Administration.

18.62.090 - Setbacks for Cut and Fill Slopes

Cut and fill slopes shall be set back from property lines as provided by this Section. The required setback dimensions shall be as shown in Figure 6-1.

A. **Top of cut slope.** Except where otherwise provided by this Section, the top of cut slopes shall be set back from adjacent property lines a distance of at least one-fifth of the vertical height of the cut, with a minimum of two feet and a maximum of 10 feet. Greater distances may be required to accommodate any necessary interceptor drains.

B. **Toe of fill slope.** Except where otherwise provided by this Section, the toe of a fill slope shall be set back from adjacent property lines a distance of at least one-half the height of the slope, with a minimum of two feet and a maximum of 10 feet. Where a fill slope is to be located near a property line and the adjacent property is developed, the City Engineer may require additional precautions to protect the adjacent property from damage as a result of grading. The precautions may include the measures specified in Section 18.62.040.E (Protection of adjacent property), additional setbacks, provisions for retaining or slough walls, mechanical or chemical treatment of the fill slope surface to minimize erosion, or additional provisions for the control of surface waters.

C. **Setback exceptions.** The City Engineer may approve alternatives to the setbacks required by Subsections A. and B. above, based on investigations and recommendations from a qualified engineer or engineering geologist.

D. **Buffers from watercourses and environmentally sensitive habitats.** No grading shall be allowed within 100 feet of any area determined by the City Engineer to be an environmentally sensitive habitat area, or from the top of the bank of a watercourse as determined by the City Engineer, unless the grading is approved as a discretionary project in compliance with Section 18.60.050A.2, and is subject to environmental review in compliance with Section 18.60.040B.

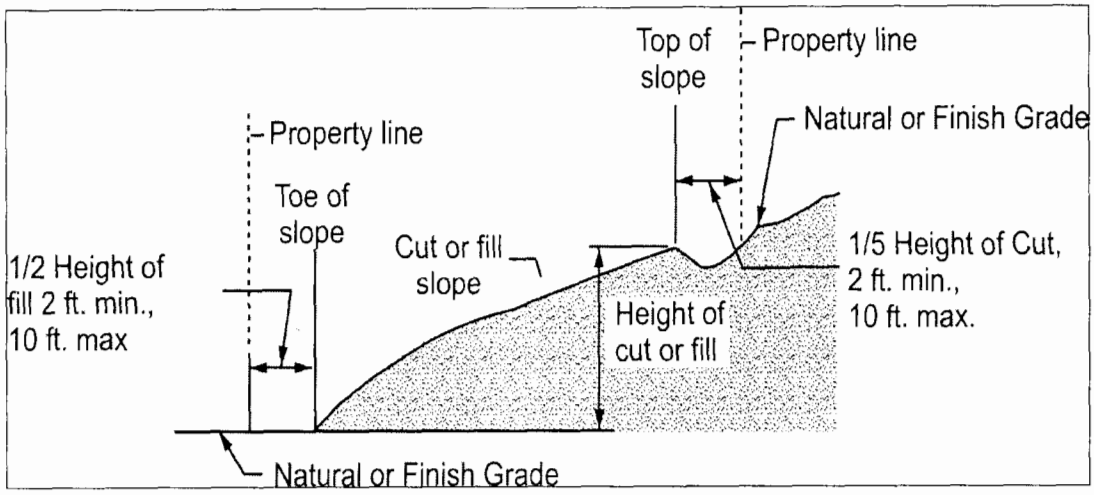

Figure 6-1 – Grading Setback Requirements

18.62.100 - Storm Drainage and Runoff

A. **Design and construction.** Drainage systems and facilities proposed within existing or future public rights-of-way shall be designed and constructed in compliance with Section 18.88.050 (Subdivision Improvement Requirements). The design and construction of drainage facilities required for cuts and fills are subject to Section 18.62.040D above. Other drainage systems and facilities shall be designed in compliance with good engineering practices.

B. **Natural drainage systems ~~channels and runoff~~.** Proposed grading projects shall include design provisions to retain ~~off-site~~ natural drainage patterns **and preserve the infiltration, purification, detention, and retention functions of natural drainage systems that exist on the site, where appropriate and feasible.,** ~~and limit the quantities and velocities of peak runoff to predevelopment levels.~~

C. **Minimize Runoff. Proposed grading projects shall include design provisions to minimize increases in stormwater runoff volume and peak runoff rate, to the extent feasible. In developing a Runoff Mitigation Plan, an applicant shall demonstrate an effort to reduce projected runoff for the project by 20 percent from the base 1985 10-year storm. In Developments of Special Water Quality Concern, post-development peak stormwater runoff discharge rates shall not exceed the estimated pre-development rate for developments where an increased discharge rate will result in increased potential for downstream erosion or other adverse habitat impacts.**

D. **Minimize Erosion. Long-term drainage improvements for site runoff, including runoff from all roadways and other impervious surfaces, shall be designed to minimize erosion through the appropriate use of rocked culvert inlets and outfalls, energy dissipators, check dams, cribbing, riprap, proper location of culverts, revegetation of exposed slopes (see Section 18.62.070), and minimizing the use of artificial slopes.**

E~~C~~. **Areas subject to flooding.** Grading or structures are not permitted in an area determined by the City Engineer to be subject to flood hazard by reason of inundation, overflow, high velocity or erosion, except where the grading or structures are in conformity with the standards of Section 18.62.030 (Erosion and Sediment Control), and the following provisions.

F~~C~~. **Areas subject to flooding.** Grading or structures are not permitted in an area determined by the City Engineer to be subject to flood hazard by reason of inundation, overflow, high velocity or erosion, except where the grading or

structures are in conformity with the standards of Section 18.62.030 (Erosion and Sediment Control), and the following provisions.

1. **Hazard elimination.** The grading and/or structures shall be designed and constructed to incorporate provisions to eliminate identified hazards to the satisfaction of the City Engineer. These provisions may include providing adequate drainage facilities, protective walls, suitable fill, raising the floor level of buildings or by other means. In the application of this standard the City shall enforce as a minimum the current Federal flood plain management regulations as defined in the National Flood Insurance Program authorized by United States Code Sections 4001-4128 and contained in Title 44 of the Code of Federal Regulations, Part 59 et seq., which are hereby adopted and incorporated into this Chapter by reference as though they were fully set forth here.

2. **Letter of Map Revision (LOMR).** Where the City Engineer approves grading and/or structures within an area subject to flooding on the basis of proposed protective measures to eliminate flooding hazards, the applicant shall file a Letter of Map Revision (LOMR) for the applicable Flood Insurance Rate Map (FIRM) with the Federal Emergency Management Agency (FEMA) prior to the issuance of a Certificate of Occupancy or the approval of a final building inspection by the City.

CHAPTER 18.64 – ~~URBAN~~ STORMWATER RUNOFF POLLUTION CONTROL

Sections:

18.64.010 - Purpose
18.64.020 - ~~Urban~~ **Stormwater** Runoff Water Quality and Discharge Management
18.64.030 - Site Development and Maintenance Standards
18.64.040 - ~~Urban~~ **Stormwater** Runoff Mitigation Plan Requirements
18.64.050 - Drainage Structure Stenciling
18.64.060 - Pollution Prevention Agreements
18.64.070 - ~~Required~~ **Post-Construction** Best Management Practices

18.64.010 - Purpose

CHAPTER 18.64 - ~~URBAN~~ **STORMWATER** RUNOFF POLLUTION CONTROL

18.64.010 - Purpose

Recognizing the health and safety benefits of clean water, the purpose of this chapter is to ensure that activities within Fort Bragg minimize the addition of ~~new~~ pollutants to waterways **and the ocean,** and reduce present ~~pollutant~~ levels of ~~and~~ sediments **and other pollutants** carried to ~~the area and~~ regional waterways through stormwater runoff, to the maximum extent feasible. **This shall help ensure that the biological productivity and quality of coastal waters is maintained, and where feasible restored, consistent with sections 30230, 30231, and other relevant sections of the California Coastal Act.**

The ~~concerns~~ **goals** of stormwater management **are** to ~~mitigate~~ **minimize** pollutant ~~and sediment~~ loading~~,~~ **and erosive stormwater runoff flows, which** ~~will~~ include **the** concepts of slowing **storm**water flows to allow percolation and other filtering Best Management Practices (BMPs) to work in harmony with the topography, and ensuring that designs for **stormwater** pollutant management are part of the planning and approval processes of new developments. Meeting these goals ~~can~~ **shall** include:

A. Reducing ~~non-storm water~~ **the volume and velocity of stormwater** discharge**s** into the municipal storm ~~water~~ **drain** system**,** ~~and~~ area **waterways, and the ocean**~~creeks~~**,** by slowing runoff and maximizing infiltration.

B. Eliminating the spillage, dumping, and disposal of significant materials and pollutants**, and eliminating or minimizing to the extent feasible all non-stormwater discharges** into the municipal storm ~~water~~ **drain** system **that are not specifically allowed by the current municipal stormwater NPDES permit**.

C. Reducing pollutant loads in ~~storm water~~ **stormwater** and urban runoff through the use of appropriate Best Management Practices.

D. Reducing the runoff of oil and gas pollutants into area storm ~~water~~ **drain** systems and creeks by filtration and/or bio-remediation of commercial/retail/industrial parking lots.

18.64.020 - ~~Urban~~ Stormwater Runoff Water Quality and Discharge Management

A. **Purpose.** The provisions of this Section are intended to ensure the health, safety, and general welfare of citizens, and protect and enhance the water quality of watercourses, ~~and~~ water bodies, **and the ocean** in compliance with the Federal Clean Water Act (Chapter 26, Subchapter I, Section 1251, and Code of Federal Regulations, Title 40, Chapter

Parts 122 and 123), by reducing pollutants in ~~storm water~~ **stormwater** discharges**, and erosive stormwater flows,** to the maximum extent **feasible** ~~practicable~~.

B. **Applicability.** This Section shall apply to all water entering the storm drain system generated on any developed and undeveloped lands within the City.

1. **Responsibility for administration.** The City Engineer shall administer, implement, and enforce the provisions of this Section. Any powers granted or duties imposed upon the City Engineer may be delegated in writing by the City Engineer to persons or entities acting in the beneficial interest of or in the employ of the City.

2. **Regulatory consistency.** This Section shall be construed to ensure consistency with the requirements of the Federal Clean Water Act, State Porter-Cologne Act, State NPDES permits, and statutes and regulations that amend or supplement those Acts or permits.

3. **Ultimate responsibility of discharger.** The requirements of this Section are minimum standards; therefore this Section does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the U.S. caused by that person. This Section shall not create liability on the part of the City, or any agent or employee of the City, for any damages that result from any discharger's reliance on this Section or any administrative decision in compliance with this Section.

C. **Discharge prohibitions.**

1. **General prohibition.** **To the maximum extent feasible,** ~~N~~no person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including pollutants or waters containing any pollutants, that cause or contribute to a violation of applicable water quality standards, other than **stormwater**~~storm water~~ ~~to the maximum extent practicable~~. The commencement, conduct, or continuance of any other discharge to the storm drain system is prohibited, except for the following.

a. The following types of discharges will not be considered a source of pollutants to the storm drain system and to waters of the U.S. when properly managed to ensure, to the maximum extent practicable, that no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of the Porter-Cologne Act, Clean Water Act, or this Section: potable water line flushing; uncontaminated pumped groundwater and other discharges from potable water sources; landscape irrigation and lawn watering; diverted stream flows; rising groundwater; uncontaminated groundwater infiltration to the storm drain system as defined at 40 CFR Chapter 35.2005(20); uncontaminated foundation and footing drains; uncontaminated water from crawl space pumps; air conditioning condensation; uncontaminated non-industrial roof drains; springs; individual residential and occasional non-commercial car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; irrigation water; street wash waters; and flows from fire fighting.

b. This prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of California under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the City for any discharge to the storm drain system.

Notwithstanding the requirements of Subsection E.1 (Authority to Inspect), the City Engineer may require by written notice that a person responsible for an illegal discharge immediately, or by a specified date,

discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

2. **Illicit connections.** The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

   a. The City Engineer may require by written notice that a person responsible for an illicit connection to the storm drain system comply with the requirements of this Section to eliminate or secure approval for the connection by a specified date.

   b. If, subsequent to eliminating a connection found to be in violation of this Section, the responsible person can demonstrate that an illegal discharge will no longer occur, the person may request City approval to reconnect. The reconnection or reinstallation of the connection shall be at the expense of the responsible person.

3. **Waste disposal.** No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the U.S., any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that they may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

4. **Discharges in Violation of Industrial or Construction Activity NPDES Storm Water Discharge Permit.** Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of the permit. Proof of compliance with the permit may be required in a form acceptable to the City Engineer prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

D. **Regulations and requirements.**

1. **Prevention, control, and reduction of storm water pollutants.**

   a. **Authorization to adopt and impose best management practices.** The City may adopt requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility that may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. Where BMP requirements are promulgated by the City or any Federal, State, or regional agency for any activity, operation, or facility that would otherwise cause the discharge of pollutants to the storm drain system or water of the U.S., every person undertaking the activity or operation, or owning or operating the facility shall comply with these requirements.

   b. **New development and redevelopment.** The City may adopt requirements identifying appropriate BMPs to control the volume, rate, and potential pollutant load of stormwater runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport and discharge of pollutants. The City shall incorporate these requirements in any land use entitlement and construction or building-related permit to be issued for the development or redevelopment.

   c. **Responsibility to implement Bbest Mmanagement Ppractices.** Notwithstanding the presence or absence of requirements promulgated in compliance with Subsections D.1.a and D.1.b, any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering ~~storm water~~ **stormwater**, the storm drain system, or waters of the U.S. shall implement BMPs

to the extent they are technologically achievable to prevent ~~and~~ **or** reduce the pollutants **to the maximum extent feasible**.

(1) The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses.

(2) Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator' s expense.

(3) **Information on** Best Management Practices required by the City can be obtained from the Public Works Department by requesting the BMP manual appropriate to a commercial or industrial activity. **In the BMP manual,** BMPs are ~~broken~~ **divided** into three categories: "high priority" which are required to be implemented, "medium priority" which are desirable to implement, and "low priority."

d. Guidance on Best Management Practices selection and design.

(1) Where Best Management Practices are required, BMPs shall be selected that have been shown to be effective in reducing the pollutants typically generated by the proposed land use. The strategy for selection of appropriate BMPS to protect water quality and coastal waters shall be guided by Tables xxxxxx1-3, or equivalent tables which list pollutants of concern for each type of development or land use.

(2) The design of BMPs shall be guided by the California Stormwater Quality Association (CASQA) Stormwater BMP Handbooks dated January 2003 (or the current edition), or an equivalent BMP manual that describes the type, location, size, implementation, and maintenance of BMPs suitable to address the pollutants generated by the development. Caltrans' 2007 "Storm Water Quality Handbook: Project Planning and Design Guide" (or the current edition) may also be used to guide design of construction-phase BMPs.

Additional guidance on BMPs is available from the State, the U.S. EPA, and from other sources such as the Bay Area Stormwater Management Agencies Association (BASMAA) "Start at the Source: Design Guidance Manual for Stormwater Quality Protection." Stormwater technologies are continually improving, thus staff and developers should be responsive to any improvements or innovations in control technologies.

(3) A water quality checklist shall be developed and used in the permit review process to evaluate a proposed development's potential impacts to water quality and coastal waters, and the appropriateness of the proposed BMPs.

2. **Watercourse protection.** Every person owning property through which a watercourse passes, or the person's lessee, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner shall be responsible for maintaining and stabilizing that portion of the watercourse that is within their property lines to protect against erosion and degradation of the watercourse originating or contributed from their property. The owner or lessee shall obtain all necessary permits from outside agencies.

3. **Remediation.** Whenever the City Engineer finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of stormwater, the storm drain system, or water of the U.S., the City Engineer may require by written notice to the owner of the property and/or the responsible person that the pollution be remediated and the affected property restored within a specified time in compliance with Subsection F. (Enforcement).

4. **Monitoring and analysis.** The City Engineer may require by written notice of requirement that any person engaged in any activity and/or owning or operating any facility that may cause or contribute to stormwater pollution, illegal discharges, and/or non-stormwater discharges to the storm drain system or waters of the U.S., to undertake at that person's expense any monitoring and analyses and furnish reports to the City as deemed necessary by the City Engineer to determine compliance with this Section.

5. **Notification of spills.** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials that are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S. from said facility, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of the release. In the event of a release of a hazardous material the person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, the person shall notify the Public Works Department in person or by phone or facsimile no later than 5:00 p.m. of the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Public Works Department within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of the establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. These records shall be retained for at least three years.

E. **Inspection and monitoring.**

1. **Authority to inspect.** Whenever necessary to make an inspection to enforce any provision of this Section, or whenever the City Engineer has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Section, the City Engineer may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to stormwater **pollution prevention** compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

2. **Authority to sample, establish sampling devices, and test.** During any inspection in compliance with this Section, the City Engineer may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

F. **Enforcement.**

1. **Violations.** It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Section. A violation of or failure to comply with any of the requirements of this Section shall constitute a public nuisance and a misdemeanor and shall be subject to enforcement in compliance with Chapter 18.98 (Enforcement and Penalties) of this Development Code.

2. **Acts potentially resulting in a violation of the Federal Clean Water Act and/or California Porter-Cologne Act.** Any person who violates any provision of this Section or any provision of any requirement issued in compliance with this chapter, may also be in violation of the Clean Water Act and/or the Porter-Cologne Act and may be subject to the sanctions of those acts including civil and criminal penalties. Any enforcement action authorized under this Section shall also include written notice to the violator of this potential liability.

3. **Notice of Violation.** Whenever the City Engineer finds that a person has violated a prohibition or failed to meet a requirement of this Section, the City Engineer may order compliance by written notice of violation to the responsible person. The notice may require without limitation:

   a. The performance of monitoring, analyses, and reporting;

   b. The elimination of illicit connections or discharges;

   c. That violating discharges, practices, or operations shall cease and desist;

   d. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and

   e. Payment of a fine to cover administrative and remediation costs; and

   f. The implementation or maintenance of source control or treatment BMPs.

   If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which remediation or restoration must be completed. The notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the City or a contractor designated by the City Engineer, with the cost of the work charged to the violator in compliance with Subsection F.5 (Abatement by City).

4. **Appeal.** Notwithstanding the provisions of Subsection F.7 (Urgency Abatement), any person receiving a Notice of Violation in compliance with Subsection F.3 (Notice of Violation), may appeal the determination of the City Engineer to the City Manager. The notice of appeal must be received by the City Manager within five days from the date of the Notice of Violation. Hearing on the appeal before the City Manager or his/her designee shall take place within 15 days from the date of City's receipt of the notice of appeal. The decision of the City Manager or designee shall be final.

5. **Abatement by City.** If the violation has not been corrected in compliance with the requirements in the Notice of Violation, or, in the event of an appeal in compliance with Subsection F.4 (Appeal), within 10 days of the decision of the City Manager upholding the decision of the City Engineer, then the City or a contractor designated by the City Engineer shall enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City or designated contractor to enter upon the premises for the purposes set forth above.

6. **Charging cost of abatement/liens.** Within 30 days after abatement of the nuisance by the City, the City Engineer shall notify the property owner of the property of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment with the City Clerk within 15 days. The City Clerk shall set the matter for public hearing by the Council. The decision of the Council shall be set forth by resolution and shall be final.

   If the amount due is not paid within 10 days of the decision of the Council or the expiration of the time in which to file an appeal under this Section, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Auditor so that the auditor may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the tax collector shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

7. **Urgency abatement.** The City Engineer is authorized to require immediate abatement of any violation of this Section that constitutes an immediate threat to the health, safety or well-being of the public. If the violation is not abated immediately as directed by the City Engineer, the City is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to the remediation undertaken by the City shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this Section shall not prevent City from seeking other and further relief authorized under this Section.

8. **Compensatory action.** In lieu of enforcement proceedings, penalties, and remedies authorized by this Section, the City Engineer may impose upon a violator alternative compensatory actions, including storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

9. **Violations deemed a public nuisance.** In addition to the other enforcement processes and penalties provided by this Section, any condition caused or permitted to exist in violation of any of the provisions of this Section is a threat to public health, safety, and welfare, and is declared and deemed a public nuisance, and may be abated or restored by the City at the violator's expense, and/or a the City may take civil action to abate, enjoin, or otherwise compel the cessation of the nuisance.

18.64.030 - Site Development and Maintenance Standards

A. **Applicability of provisions.** The provisions of Sections 18.64.040 through 18.64.070 apply as determined by this Section, to any proposed land use or development involving grading activities, or the construction of a new structure that requires a permit in compliance with this Development Code. Compliance with the provisions of this Chapter shall be required through planning permit or subdivision conditions of approval. Any necessary pollution control measures shall be installed prior to construction, or **prior to** the occupancy of a structure or site, as deemed appropriate by the City. In all cases, the applicant/permittee is responsible for ensuring compliance with the provisions of Sections 18.64.040 through 18.64.070.

   1. An applicant proposing a project with land disturbance of one acre or more, or any industrial facility shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) in compliance with the requirements of the Federal Clean Water Act, U.S. Environmental Protection Agency (EPA), and the California **State** Water

Resources **Control** Board. The application shall also include a Hazardous Materials Handling and Spill Response Plan related to construction activities, and in the case of industrial facilities, shall also address operations after construction. The applicant shall submit a copy of the SWPPP to the City prior to the processing of any planning permit or subdivision application, or the granting of any construction permits.

2. An applicant proposing a project requiring a grading permit, but that does not require a SWPPP, shall instead be required to submit a Construction Pollution Prevention Plan, which shall evaluate potential construction-phase impacts to water quality and coastal waters, and shall specify temporary Best Management Practices (BMPs) to minimize erosion and sedimentation during construction, and prevent contamination of runoff by construction chemicals and materials.

~~2. All new or re-built retail/commercial/industrial parking lots shall provide a sub-surface filtering system for oil & grease contaminates as part of their application.~~

3. **In the application and initial planning process, all** ~~All~~ projects shall submit a Runoff Mitigation Plan which ~~illustrates~~ **describes** the **post-construction** Best Management Practices (BMPs) ~~they~~ **that** will be ~~utilized~~ **used in the project** to reduce **erosive** stormwater flow and to prevent ~~pollutants from running off~~ **polluted runoff from** the built project ~~as part of the application and initial planning process~~.

4. In the application and initial planning process, all Developments of Special Water Quality Concern (see 18.64.05) shall submit a Water Quality Management Plan (WQMP), certified by a California Registered Civil Engineer, which supplements the Runoff Mitigation Plan. The WQMP shall include hydrologic calculations that estimate increases in pollutant loads and runoff flows resulting from the proposed development, and shall specify post-construction BMPs to minimize impacts to water quality and coastal waters.

5~~4~~. An applicant for a project that will disturb one acre or more shall submit to the City Engineer proof of an application for a NPDES **Storm Water Construction P**~~p~~ermit and their Waste Discharge Identification Number issued by the State.

B. **Responsibility for administration.** This Chapter shall be administered by the City Engineer or his or her designee in coordination with the Director.

C. **Regulatory consistency.** This Chapter shall be construed to assure consistency with the requirements of:

1. The Federal Water Pollution Control Act, 33 USCS ' 1251 et seq., and the applicable implementing regulations;

2. The mandates and rulings of the US Environmental Protection Agency (EPA);

3. The NPDES permit of the City of Fort Bragg and its Aco-permitees@;

4. The Fort Bragg General Plan; and

5. Other existing or future NPDES Permits and any amendments, revisions or reissuance thereof by either Federal, State, County, or City regulatory agencies.

D. Requirements for Submittal of a Construction Pollution Prevention Plan. The Construction Pollution Prevention Plan shall evaluate potential construction-phase impacts to water quality and coastal waters, and specify temporary Best Management Practices (BMPs) that will be implemented to minimize erosion and sedimentation during construction, and prevent contamination of runoff by construction chemicals and materials.

The Construction Pollution Prevention Plan shall include, but not be limited to, the following information:

1. A site plan specifying the distance from the proposed development to the nearest waterbody.

2. Proposed methods for controlling wind and water erosion and sedimentation during construction, including but not limited to:

   a. Limitations on grading during the rainy season.

   b. BMPs for staging, storage, and disposal of excavated materials.

   c. Design specifications for structural BMPs, such as sedimentation basins, when required by the City Engineer.

   d. Re-vegetation and landscaping plans for graded or disturbed areas.

3. Proposed methods for controlling non-storm related and storm related polluted runoff during construction, including but not limited to:

   a. Methods to minimize the discharge of potential pollutants from construction materials (including paints, solvents, vehicle fluids, asphalt and cement compounds, and debris) into stormwater runoff.

   b. BMPs for staging, storage, and disposal of construction chemicals and materials.

   c. Methods to treat or infiltrate stormwater prior to conveyance off-site during construction.

   d. Methods to convey runoff from impervious surfaces into permeable areas of the property in a non-erosive manner.

18.64.040 - ~~Urban~~ Stormwater Runoff Mitigation Plan Requirements

The following runoff reduction requirements shall apply to all persons submitting applications for development within the City, whether fulfilled by the Federal SWPPP format, by a Runoff Mitigation Plan (RMP), or as an additional measure.

A. **Submittal of Runoff Mitigation Plan.** At the time of submittal of an application for the first planning approval for proposed development, the applicant shall submit to the City Engineer either a Runoff Mitigation Plan, or a copy of **a** Notice of Intent (NOI) **to comply with the NPDES Stormwater Construction or Industrial Permit** filed with the Regional Water Quality Control Board.

B. **Goal for runoff reduction in a Runoff Mitigation Plan.** In developing a Runoff Mitigation Plan, an applicant shall demonstrate **that the development will be designed and managed to minimize increases in stormwater runoff volume and peak runoff rate, to the extent feasible, and that** an effort **is made** to reduce projected runoff for the project ~~-~~by 20 percent from the base 1985 10-year storm**,** through incorporation of design elements or principles which address each of the goals set forth below in Subsections B.1, B.2, and B.3.

The design elements utilized by an applicant may, but are not required to, include those provided on the list below, with the exception of Subsection B.2.d which is required where applicable. Although design elements are set forth as if they address only one goal, in many cases they address more than one and can be used to address multiple goals in achieving the **goal of** ~~reduced~~ **minimizing stormwater** runoff ~~to be achieved by~~ **in** the mitigation plan.

1. ~~Increase permeable areas~~ **Minimize Impervious Surfaces.**
Minimize the impervious surface site coverage (including pavement, sidewalks, driveways, patios, parking areas, streets, and roof-tops), especially directly connected impervious areas.

~~The following m~~**M**easures **that** shall be used **to minimize the impervious surface site coverage include, but are not limited to:** ~~increase the permeable areas on the site~~.

a. To slow **stormwater** runoff and maximize infiltration, increase the percentage of project site area retained or maintained as permeable area. The area may include vegetation, pervious paving materials**,** and porous materials for or near walkways, which increase the amount of runoff ~~seepage~~ **infiltrating** into the ground. Permeable surface materials can include wood decking materials, brick**,** or stone with spaces to allow percolation between stones, and similar methods~~.~~**;**

~~b. Use natural drainage, detention ponds, or infiltration pits so that~~ **stormwater** ~~runoff may collect and seep into the ground and~~ **to** ~~reduce or prevent off-site flows;~~

b. Design curbs, berms, or the like so as to avoid isolation of permeable or landscaped areas;

c. Divert and catch **stormwater** runoff through the use of drainage swales, berms, green strip filters, gravel beds**,** ~~and~~ **or** french drains; and

d. Construct driveways and walkways from porous materials to allow increased percolation of **stormwater** runoff into the ground.

2. ~~Minimize~~**Maximize Infiltration of** runoff. **Maximize on-site infiltration of stormwater runoff, where appropriate and feasible.**

Measures that shall be used to maximize on-site infiltration of stormwater runoff include, but are not limited to:

a. Development that creates new impervious surfaces shall divert stormwater runoff flowing from

these surfaces into permeable areas, where appropriate and feasible, to enhance on-site stormwater infiltration capacity.

b. Minimize the amount of runoff directed to impermeable areas and/or maximize storm water **stormwater** storage for reuse.

ca. Install rain gutters and orient them towards permeable surfaces rather than driveways or non-permeable surfaces so that runoff will ~~penetrate~~ **infiltrate** into the ground instead of flowing off-site;

d~~b~~. Modify grades of property to divert flow to permeable areas and to minimize the amount of ~~storm water~~**stormwater** leaving the property;

e~~c~~. Use sediment traps to intercept runoff from drainage areas and hold or slowly release the runoff, with sediments held in the trap for later removal;

fd. Use retention structures or design roof-tops to store runoff. Utilize subsurface areas for storm**water** runoff, either for reuse or to enable release of runoff at predetermined times or rates to minimize the peak discharge into storm drains. Cisterns are also a possible storage mechanism for reuse; and

~~e. Design curbs, berms, or the like so as to avoid isolation of permeable or landscaped areas.~~

g. Use natural drainage, detention ponds, or infiltration pits so that stormwater runoff may collect and seep into the ground and to reduce or prevent off-site flows.

h. Alternative management practices shall be substituted where the City Engineer has determined that infiltration BMPs may result in adverse impacts, including but not limited to where saturated soils may lead to geologic instability, where infiltration may contribute to flooding, or where regulations to protect groundwater may be violated.

3. **Reduce parking lot runoff pollution**~~:~~**. Reduce erosive runoff and pollution from parking lots, including oil and grease, automotive fluids, sediment, and trash.**

Measures that shall be used to reduce parking lot pollution include, but are not limited to:

a. All new or re-built retail/commercial/industrial parking lots of more than 5,000 square feet in area shall ~~be~~ provided **a sub-surface filtering system for oil and grease contaminates (e.g., inlet media filter,** oil and water separators, or clarifiers) to remove petroleum-based contaminants and other pollutants which are likely to accumulate;

b. Direct runoff toward permeable areas and away from pollutant laden areas such as parking lots; and

c. Construct portions of parking lots from porous materials.

d. All parking lot facilities ~~to reduce parking lot pollution~~ shall be regularly cleaned and continually maintained in effective working condition.

C. **Criteria for evaluation of mitigation plans.** The City's evaluation of each Runoff Mitigation Plan will ascertain how well the proposed plan meets the combined goals set forth in Subsection B~~.~~, above. Each plan will be evaluated on its own merits according to the particular characteristics of the project and the site to be developed.

D. **Waiver of Runoff Mitigation Plan.** Full or partial waivers of compliance with this Section may be obtained by persons who apply on forms supplied by the City and show that incorporation of design elements that address the objectives set forth in Subsection B., above is an economic and physical impossibility due to the particular

configuration of the site or to irreconcilable conflicts with other City requirements. Requests for waivers shall be granted or denied, in writing, by the City Engineer, in conjunction with the Director.

E. **Compliance as condition of approval.** Compliance with an approved Runoff Mitigation Plan shall be a condition of approval of any required planning approval.

F. **Erosion control.** Erosion shall be controlled in compliance with Chapter 18.62.

G. **Hazardous and toxic materials control.** The use of toxic and hazardous materials shall be controlled, with the project applicant filing with the City Engineer the following plans for control:

1. A Hazardous Materials Handling and Spill Response Plan, for industrial facilities;

2. A plan for handling grease, in compliance with Municipal Code Chapter 14.28 (Fats, Oils, and Grease Control), for restaurants; and

3. A plan for reduced use of pesticides and herbicides as part of the Water Conservation Landscaping Plans for commercial, industrial, retail and multi-family developments.

18.64.045 – "Developments of Special Water Quality Concern"

A. Categories of Developments of Special Water Quality Concern. The categories of development listed below have the potential for greater adverse coastal water quality impacts, due to the development size, type of land use, impervious site coverage, or proximity to coastal waters. A development in one or more of the following categories shall be considered a "Development of Special Water Quality Concern," and shall be subject to additional requirements (see B, below) to protect coastal water quality.

Developments of Special Water Quality Concern include the following:

1. Housing developments of ten or more dwelling units.
2. Hillside developments on slopes greater than 12 percent, located in areas with highly erodible soil.
3. Developments that result in the creation, addition, or replacement of 10,000 square feet or more of impervious surface area.
4. Developments that result in site coverage of 50 percent or more of the development site with impervious surfaces.
5. Parking lots with 5,000 square feet or more of impervious surface area, potentially exposed to stormwater runoff.
6. Heavy industrial developments.
7. Vehicle service facilities (including retail gasoline outlets, commercial car washes, and vehicle repair facilities).
8. Commercial or industrial outdoor storage areas of 5,000 square feet or more, or as determined by the City Engineer based on the use of the storage area, where used for storage of materials that may contribute pollutants to the storm drain system or waterbodies.
9. All developments within 125 feet of the ocean or a coastal waterbody (including estuaries, wetlands, rivers, streams, and lakes), or that discharge directly to the ocean or a waterbody, if such development results in the creation, addition, or replacement of 2,500 square feet or more of impervious surface area.

   "Discharge directly to" the ocean or a waterbody means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not

commingled with flows from adjacent lands.

10. Any other development determined by the City Engineer to be a Development of Special Water Quality Concern.

B. Additional Requirements for Developments of Special Water Quality Concern. In addition to all requirements for a Runoff Mitigation Plan, all Developments of Special Water Quality Concern (as identified in A, above) shall be subject to the following four additional requirements to protect coastal water quality:

1. Submittal of Water Quality Management Plan. At the time of submittal of an application for the first planning approval for a proposed Development of Special Water Quality Concern, the applicant shall submit to the City Engineer for approval a Water Quality Management Plan (WQMP) certified by a California Registered Civil Engineer, which supplements the Runoff Mitigation Plan required for all development. The WQMP shall include hydrologic calculations that estimate increases in pollutant loads and runoff flows resulting from the proposed development, and specify the BMPs that will be implemented to minimize post-construction water quality impacts.

2. Selection of Structural Treatment Control BMPs. If the City Engineer determines that the combination of Site Design and Source Control BMPs is not sufficient to protect water quality and coastal waters as required by Policy OS-2.3, structural Treatment Control BMPs shall also be required. The WQMP for a Development of Special Water Quality Concern shall describe the selection of Treatment Controls BMPs, and applicants shall first consider the BMP, or combination of BMPs, that is most effective at removing the pollutant(s) of concern, or provide a justification if that BMP is determined to be infeasible.

3. 85th Percentile Design Standard for Treatment Control BMPs. For post-construction treatment of runoff in Developments of Special Water Quality Concern, Treatment Control BMPs (or suites of BMPs) shall be sized and designed to treat, infiltrate, or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs.

4. Goal for runoff reduction. In developing a Water Quality Management Plan, an applicant shall demonstrate that the Development of Special Water Quality Concern shall be designed and managed so that the post-development peak stormwater runoff discharge rate shall not exceed the estimated pre-development rate for developments where an increased discharge rate will result in increased potential for downstream erosion or other adverse habitat impacts.

C. Submittal Requirements for a Water Quality Management Plan

The applicant for a Development of Special Water Quality Concern shall submit a post-construction Water Quality Management Plan (WQMP), which shall be certified by a California Registered Civil Engineer, and approved by the City. The Water Quality Management Plan shall include, but not be limited to, the following information, as determined by the City Engineer:

1. All the information required in a Runoff Mitigation Plan.

2. Site Design and Source Control BMPs that will be implemented to minimize post-construction impacts to water quality and coastal waters.

3. Appropriate structural Treatment Control BMPs as required by the City Engineer, that are known to be effective in removing the specific runoff pollutants generated by the development, using processes such as gravity settling, filtration, biological uptake, media adsorption, or any other physical, chemical, or biological process.

4. A justification if the most efficient Treatment Control BMP, or combination of BMPs, is deemed infeasible.

5. A Hydrological Study based on the City's standard methodology of comparing pre- and post-construction hydrological conditions, demonstrating that the post-development peak stormwater

runoff discharge rate shall not exceed the estimated pre-development rate for developments where an increased discharge rate will result in increased potential for downstream erosion or other adverse habitat impacts.

6. **Measures to infiltrate or treat runoff from impervious surfaces (including roads, driveways, parking structures, building pads, roofs, and patios) on the parcel, and to discharge the runoff in a manner that avoids potential adverse impacts. Such measures may include, but are not limited to, structural Treatment Control BMPs including biofilters, grassy swales, detention ponds, or dry wells.**

7. **A description of how the BMPs (or suites of BMPs) have been designed to infiltrate and/or treat the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs.**

8. **A draft long-term inspection and maintenance agreement for all structural Treatment Control BMPs. All structural BMPs shall be inspected, cleaned, and repaired as necessary to ensure their effective operation for the life of the development.**

18.64.050 - Drainage Structure Stenciling

Where a catch basin or other drainage structure is ~~required~~ **constructed or modified** for a proposed project, **a marker or stenciling with** written and/or graphic information discouraging the dumping, discarding, and/or discharge of pollutants into the storm drain~~age~~ system shall be permanently affixed to the ~~structure~~ **storm drain inlet** in a location approved by the City Engineer. The information shall be painted, stamped into the concrete, or provided on a metal plaque affixed to the structure as approved by the City Engineer or his or her designee.

18.64.060 - Pollution Prevention Agreements

Prior to final building inspection, the issuance of a Certificate of Occupancy, or the filing of a Final Map, as applicable, the applicant shall enter into a Pollution Prevention Agreement with the City or other agency designated by the City. The agreement shall include, but is not limited to, the following provisions:

A. Authorization for the City or other agency designated by the City to inspect on-site pollution prevention facilities with respect to the accumulation and concentration of pollutants, garbage and/or debris, so as to prevent the discharge of pollutants, garbage and/or debris into streets and/or the storm drainage system;

B. Fair share participation in the periodic cleaning of storm drain facilities, increases in street sweeping, and increases in the emptying of roadside trash receptacles resulting from the project;

C. Fair share participation in the funding of the City's Public Information and Education Programs for the disposal of waste, recycling, and water conservation; and

D. Requirements that any applicable conditions, covenants, and restrictions (CC&Rs) include statements encouraging homeowners, and persons in control of homes and businesses to:

   1. Prevent the improper disposal of litter, lawn/garden clippings and pet feces into streets or other areas where runoff may carry pollutants into the storm drainage system;

   2. Remove dirt, trash and debris from sidewalks and alleys that may contribute pollutants to ~~urban~~ **stormwater** runoff;

   3. Recycle oil, glass, plastic, and other materials to prevent improper disposal into the storm drainage system;

4. Properly dispose of household hazardous waste to prevent improper disposal into storm drainage system; and

5. Properly use and conserve water.

E. Provisions for the long-term maintenance or repair of post-construction BMPs, including structural BMPs.

F. Authorization for the City or other agency designated by the City to evaluate the effectiveness of installed BMPs, and to require that additional BMPs be implemented if the installed BMPs are not effective in minimizing impacts to water quality and coastal waters.

18.64.070 - ~~Project Site~~ Post-Construction Best Management Practices

A. Post-Construction BMP Requirements.

1. Emphasize Site Design and Source Control BMPs.
Long-term post-construction Best Management Practices (BMPs) that protect water quality and control runoff flow shall be incorporated in the project design of new developments in the following order of emphasis:

a. Site Design BMPs: Any project design feature that reduces the creation or severity of potential pollutant sources, or reduces the alteration of the project site's natural flow regime. Examples include minimizing impervious surfaces, and minimizing grading.

b. Source Control BMPs: Any schedules of activities, prohibitions of practices, maintenance procedures, managerial practices, or operational practices that aim to prevent storm water pollution by reducing the potential for contamination at the source of pollution. Examples include covering outdoor storage areas, use of efficient irrigation, and minimizing the use of landscaping chemicals.

c. Treatment Control BMPs: Any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or any other physical, biological, or chemical process. Examples include vegetated swales, and storm drain inserts.

2. Incorporate Site Design and Source Control in all developments.
Site Design BMPs may reduce a development's need for Source and/or Treatment Control BMPs, and Source Control BMPs may reduce the need for Treatment Control BMPs. Therefore, all new development shall incorporate effective post-construction Site Design and Source Control BMPs, where applicable and feasible, to minimize adverse impacts to water quality and coastal waters resulting from the development. Site Design and Source Control BMPs may include, but are not limited to, those outlined in the City's Storm Water Management program.

3. Incorporate Treatment Control BMPs if Necessary.
If the combination of Site Design and Source Control BMPs is not sufficient to protect water quality and coastal waters consistent with Policy OS-2.3, as determined by the City Engineer, development shall also incorporate post-construction Treatment Control BMPs. Projects of Special Water Quality Concern (see 18.64.045) are presumed to require Treatment Control BMPs to meet the requirements of OS-2.3.

Treatment Control BMPs may include, but are not limited to, those outlined in the City's Storm Water Management program, including biofilters (e.g., vegetated swales or grass filter strips), bioretention, infiltration trenches or basins, retention ponds or constructed wetlands, detention basins, filtration systems, storm drain inserts, wet vaults, or hydrodynamic separator systems.

B. Site Design and Source Control BMP Requirements. New development shall be sited and designed to protect water quality and minimize impacts to coastal waters by incorporating BMPs designed to ensure the following:

1. Use Integrated Management Practices in Site Design.
The city shall require, where appropriate and feasible, the use of small-scale integrated management practices (e.g., Low Impact Development designs) designed to maintain the site's natural hydrology by minimizing impervious surfaces and infiltrating stormwater close to its source (e.g., vegetated swales, permeable pavements, and infiltration of rooftop runoff).

2. Preserve Functions of Natural Drainage Systems.
New development shall be sited and designed to preserve the infiltration, purification, detention, and retention functions of natural drainage systems that exist on the site, where appropriate and feasible. Drainage shall be conveyed from the developed area of the site in a non-erosive manner.

3. Minimize Impervious Surfaces.
New development shall minimize the creation of impervious surfaces (including pavement, sidewalks, driveways, patios, parking areas, streets, and roof-tops), especially directly connected impervious areas, where feasible. Redevelopment shall reduce the impervious surface site coverage, where feasible.

Directly connected impervious areas include areas covered by a building, impermeable pavement, and/or other impervious surfaces, which drain directly into the storm drain system without first flowing across permeable land areas (e.g., lawns).

4. Infiltrate Stormwater Runoff.
Development shall maximize on-site infiltration of stormwater runoff, where appropriate and feasible, to preserve natural hydrologic conditions, recharge groundwater, attenuate runoff flow, and minimize transport of pollutants.

Alternative management practices shall be substituted where the City Engineer has determined that infiltration BMPs may result in adverse impacts, including but not limited to where saturated soils may lead to geologic instability, where infiltration may contribute to flooding, or where regulations to protect groundwater may be violated.

a. Divert Stormwater Runoff into Permeable Areas.
Development that creates new impervious surfaces shall divert stormwater runoff flowing from these surfaces into permeable areas, where appropriate and feasible, to enhance on-site stormwater infiltration capacity.

b. Encourage Use of Permeable Pavements.
To enhance stormwater infiltration capacity, development shall use permeable pavement materials and techniques (e.g., paving blocks, porous asphalt, permeable concrete, and reinforced grass or gravel), where appropriate and feasible. Permeable pavements shall be designed so that stormwater infiltrates into the underlying soil, to enhance groundwater recharge and provide filtration of pollutants.

5. Avoid Steep Slopes with Highly Erodible Soil.
Where feasible, new developments shall be sited and designed to avoid areas on steep slopes (i.e., 12% or greater) with highly erodible soil. Developments on these hillside areas are considered Developments of Special Water Quality Concern, and are subject to additional requirements (see 18.64.045).

6. Landscape with Native Plant Species.

The City shall encourage new development to use drought-resistant native plant species for landscaping, to reduce the need for irrigation and landscaping chemicals (e.g., pesticides and fertilizers).

C. Site Operation and Management BMPs

The owner, occupant, or other person in charge of day-to-day operation of ~~each~~ **all** premises within the City shall implement the Best Management Practices, as applicable, as follows.

1. Permitees shall be required to continue the operation, inspection, and maintenance of all post-construction BMPs as necessary to ensure their effective operation for the life of the development.

2A. For premises with parking lots **of more than 5,000 square feet in area, that are** ~~with more than 25 parking spaces~~ exposed to stormwater, ~~and which parking lots~~ **and that** are associated with industrial or commercial activities~~,~~ (according to the United States Office of Management and Budget Standard Industrial Classification Code), the owner, occupant, or other person in charge of day-to-day operation shall use BMPs to reduce the discharge of pollutants to the maximum extent **feasible** ~~practicable~~. Such measures may include ~~rear~~ **street** sweeping or other measures, if effective.

3B. For premises where machinery or other equipment which is repaired or maintained at facilities or activities associated with industrial or commercial activities~~,~~ (according to the United States Office of Management and Budget Standard Industrial Classification Manual), the owner, occupant, or other person in charge of day-to-day operations shall use BMPs or other steps to prevent discharge of maintenance or repair related pollutants to the City's storm drain~~age~~ system.

4C. For other premises exposed to stormwater, the owner, occupant, or other person in charge of day-to-day operations shall use BMPs, if they exist, or other methods to reduce the discharge of pollutants to the maximum extent **feasible** ~~practicable,~~. **Such measures may** include~~ing~~ the removal and lawful disposal of any solid waste or any other substance **that** ~~which~~, if it were to be discharged to the storm drain~~age~~ system, would be a pollutant, including fuels, waste fuels, chemicals, chemical wastes, and animal wastes, from any part of the premises exposed to stormwater.

5D. For premises which fall under the requirements for the Industrial SWPPP per Federal Law, the site ~~A~~annual reports~~@~~ and ~~A~~monitoring reports~~@~~ shall also be copied to the City Engineer.

Article 7
Planning Permit Procedures

ARTICLE 7

Planning Permit Procedures

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CHAPTER 18.70 – PERMIT APPLICATION FILING AND PROCESSING

Sections:

18.70.010 - Purpose
18.70.020 - Authority for Land Use and Zoning Decisions
18.70.030 - Multiple Permit Applications
18.70.040 - Application Preparation and Filing
18.70.050 - Application Fees
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18.70.070 - Initial Application Review
18.70.080 - Project Evaluation and Staff Reports

18.70.010 - Purpose

This Chapter provides procedures and requirements for the preparation, filing, and initial processing of the planning permit applications required by this Development Code. **Chapter 18.71 includes additional requirements regarding application and review procedures applicable to specific planning permits required by this Development Code.**

18.70.020 - Authority for Land Use and Zoning Decisions

Table 7-1 (Review Authority) identifies the review authority responsible for reviewing and making decisions on each type of application required by this Development Code.

18.70.030 - Multiple Permit Applications

A. **Concurrent filing.** **Unless otherwise expressly required elsewhere in this Development Code ,** an applicant for a development project that requires the filing of more than one application (e.g., Tentative Map, Use Permit, etc.), shall file all related applications concurrently, together with all application fees required by Section 18.70.050 (Application Fees), unless these requirements are waived by the Director.

B. **Concurrent processing.** **Unless otherwise expressly required elsewhere in this Development Code ,** multiple applications for the same project shall be processed concurrently, and shall be reviewed, and approved or disapproved by the highest review authority designated by this Development Code for any of the applications (e.g., a project for which applications for Zoning Map amendment and a Use Permit are filed shall have both applications decided by the Council, instead of the Commission acting upon the Use Permit as otherwise provided by Table 7-1).

TABLE 7-1 - REVIEW AUTHORITY

Type of Action	Applicable Code Section	Role of Review Authority (1)		
		Director	Planning Commission	City Council
Administrative and Legislative				
Cultural Heritage-Related Actions	18.74	Recommend	Recommend	Decision
Development Code Amendment	18.94	Recommend	Recommend	Decision
General Plan Amendment	18.94	Recommend	Recommend	Decision
Interpretation	18.12	Decision (2)	Appeal	Appeal
Local Coastal Program Amendment	18.94	Recommend	Recommend	Decision
Specific Plans and Amendment	18.78	Recommend	Recommend	Decision
Zoning Map Amendment	18.94	Recommend	Recommend	Decision
Planning Permits				
Administrative Variance	18.71.070	Decision (2)	Appeal	Appeal
Certificate of Appropriateness (COA)	18.74.050	Decision (2)	Decision	Appeal
Coastal Development Permit	18.71.040	Decision (3)	Decision	Appeal
Design Review	18.71.050	Decision (2)	Decision	Appeal
Limited Term Permit	18.71.030	Decision (2)	Appeal	Appeal
Minor Use Permit (MUP)	18.71.060	Decision (2)	Appeal	Appeal
Planned Development Permit	18.71.090	Recommend	Decision	Appeal
Sign Permit	18.38	Decision (2)	Appeal	Appeal
Use Permit (UP)	18.71.060	Recommend	Decision	Appeal
Variance	18.71.070	Recommend	Decision	Appeal
Zoning Clearance	18.71.020	Decision (2)	Appeal	Appeal

Notes:

(1) "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 18.92 (Appeals).

(2) The Director may defer action and refer the request to the Commission, so that the Commission may instead make the decision.

(3) The Director may act on a Coastal Development Permit application that is not required to have a public hearing, in compliance with Section 18.71.040 (Coastal Development Permits).

18.70.040 - Application Preparation and Filing

A. **Pre-application conference.** A prospective applicant is encouraged to request a pre-application conference with the Director before completing and filing a planning permit application. The purpose of this conference is to generally:

1. Provide the opportunity for an applicant to explain their project proposal to City staff who may review a subsequent application; and

2. Inform the applicant of City requirements as they apply to the proposed project based on information provided by the applicant;

3. Review the City's review process, possible project alternatives or modifications;

4. Identify information and materials the City will require with the application, and any necessary technical studies and information relating to the environmental review of the project;

5. Indicate to the applicant the extent to which the project appears to comply with applicable city regulations, as the project is understood by staff.

Neither the pre-application review nor the provision of information and/or pertinent policies shall be construed as either a recommendation for approval or disapproval of the application or project by any City staff. Any failure by City staff to identify all required studies or all applicable requirements shall not constitute a waiver of those requirements.

B. **Application contents.** Each application for a permit, amendment, or other matter pertaining to this Development Code shall be filed with the Director on a City application form, together with required fees and/or deposits, and all other information and materials required by the City's list of required application contents, as identified in the Department handout for the specific type of application. Applicants are encouraged to contact the Director before submitting an application to verify which materials are necessary for application filing.

C. **Eligibility for filing.** An application may only be filed by the owner of the subject property, or other person with the written consent of the property owner. With the Director's approval, a lessee with the exclusive right to use the property for a specified use may file an application related to that use.

D. **Rejection of application.** If the Director determines that an application cannot lawfully be approved by the City (e.g., a request for a Zoning Map amendment or Tentative Map could not be granted in the absence of a concurrent General Plan amendment application; or a Use Permit application proposes a use that is not allowable in the subject zoning district, etc.), the Director shall not accept the application for processing.

18.70.050 - Application Fees

A. **Fee schedule.** The Council shall establish a schedule of fees for the processing of the applications required by this Development Code, hereafter referred to as the City's Fee Schedule. The fee schedule is intended to allow recovery of all costs incurred by the City in processing permit applications to the maximum extent allowed by the law.

B. **Timing of payment.** No application shall be deemed complete, and processing shall not commence on any application until all required fees or deposits have been paid. Failure to timely pay supplemental requests for payment of required fees and/or deposits shall be a basis for denial or revocation of any permit or other requested entitlement, notwithstanding any other provisions of this Development Code.

C. **Refunds and withdrawals.** Application fees cover City costs for public hearings, mailings, staff time, and the other activities involved in processing applications. Therefore, no refund due to a disapproval shall be allowed. In the case of a withdrawal, the Director shall have the discretion to authorize a partial refund based upon the pro-rated costs to-date and the status of the application at the time of withdrawal.

18.70.060 - Developer Indemnification

A. **Applicant agreement.** At the time of submitting an application for a discretionary land use approval, the applicant shall agree as part of the application, to defend (with legal counsel of City's selection), indemnify, and hold harmless the City and its agents, attorneys, employees, and officers, from any action, claim, or proceeding brought against the City or its agents, employees, and officers to attack, set aside, void, or annul a discretionary land use approval of the City, which action is brought within the applicable statute of limitations. The required indemnification provided herein shall include damages awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with the action.

B. **City notification of applicant.** In the event that an action, claim, or proceeding referred to in Subsection A., above is brought, the City shall promptly notify the applicant of the existence of the action, claim, or proceeding and shall cooperate fully in the defense of the action, claim, or proceeding.

C. **City participation in defense.** Nothing in this Section shall prohibit the City from participating in the defense of any action, claim, or proceeding if the City elects to bear its own attorney's fees and costs and defends the action in good faith.

18.70.070 - Initial Application Review

A. **Review for completeness.** The Director shall review each application for completeness and accuracy before it is accepted as being complete and officially filed. The Director's determination of completeness shall be based on the City's list of required application contents (see Section 18.70.040.B - Application contents), and any additional written instructions provided to the applicant in any pre-application conference, and/or during the initial application review period. **Coastal development permit applications shall include all of the filing materials identified in Section 18.71.040(D).**

1. **Notification of applicant.** As required by State law (Government Code Section 65943), within 30 calendar days of application filing, the applicant shall be informed in writing, either that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, specified in the Director's letter, shall be provided.

2. **Appeal of determination.** Where the Director has determined that an application is incomplete, and the applicant believes that the application is complete and/or that the information requested by the Director is not required, the applicant may appeal the Director's determination in compliance with Chapter 18.92 (Appeals).

3. **Time for submittal of additional information.** When an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness shall occur. The time available to an applicant for submittal of additional information is limited by following Subparagraph (A.4).

4. **Expiration of application.**

   a. If an applicant fails to provide the additional information specified in the Director's letter within 180 days following the date of the letter, the application shall expire and be deemed withdrawn, without any further action by the City.

   b. The Director may grant one 90-day extension.

   c. After the expiration of an application, future City consideration shall require the submittal of a new, complete application and associated fees.

5. **Environmental information.** After an application has been accepted as complete, the Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring).

B. **Determination of Coastal Permit notice and hearing procedures.** For projects **requiring a Coastal Development Permit**~~proposed within the Coastal Zone~~, the Director shall make the determination required by Subparagraph 18.71.040.D.1 (Determination of permit category) as to whether the development is **exempted,** categorically excluded, non-appealable, or appealable for the purposes of notice, hearing, and appeal procedures **required by Section 18.71.040 (Coastal Development Permit)**, at the same time that completeness review occurs in compliance with Subsection A., above. **Where an applicant or interested person, including the City and the Coastal Commission staff, have a question as to whether a development is exempted, excluded, non-appealable, or appealable to the Coastal Commission, the question shall be resolved in compliance with Section 18.71.040(D)(2).**

C. **Referral of application.** At the discretion of the Director, or where otherwise required by this Development Code or State or Federal law, an application may be referred to any public agency that may be affected by or have an interest in the proposed project.

18.70.080 - Project Evaluation and Staff Reports

A. **Staff evaluation.** The Director shall review all discretionary applications filed in compliance with this Article to determine whether they comply and are consistent with the provisions of this Development Code, other applicable provisions of the Municipal Code, the General Plan, and any applicable specific plan.

B. **Staff report.** The Director shall provide a written recommendation to the Commission and/or Council (as applicable) as to whether the application should be approved, approved subject to conditions, or disapproved.

C. **Report distribution.** Each staff report shall be furnished to the applicant at the same time as it is provided to the review authority before action on the application.

CHAPTER 18.71 – PERMIT REVIEW AND DECISIONS

Sections:

18.71.010 - Purpose of Chapter
18.71.020 - Zoning Clearance
18.71.030 - Limited Term Permit
18.71.040 - Coastal Development Permit
18.71.050 - Design Review
18.71.060 - Use Permit and Minor Use Permit
18.71.070 - Variance and Administrative Variance
18.71.080 - Emergency Permit
18.71.090 - Planned Development Permit

18.71.010 - Purpose of Chapter

A. **Permit review procedures.** This Chapter provides procedures for the final review, and approval or disapproval of the planning permit applications established by this Development Code **in addition to the general requirements for the preparation, filing, and initial processing of planning permits required by Chapter 18.70**.

B. **Subdivision review procedures.** Procedures and standards for the review and approval of subdivision maps are found in Article 8 (Subdivision Regulations and Procedures).

C. **Application filing and initial processing.** Where applicable, the procedures of this Chapter are carried out after those described in Chapter 18.70 (Permit Application Filing and Processing), for each application.

18.71.020 - Zoning Clearance

A. **Purpose.** Zoning Clearance is the procedure used by the City to verify that a proposed land use or structure complies with the list of activities allowed in the applicable zoning district, and the development standards applicable to the use.

B. **Applicability.** Where Article 2 (Zoning Districts and Allowable Land Uses) or other provision of this Development Code requires a Zoning Clearance as a prerequisite to establishing a land use, the Zoning Clearance shall be required at the time of Department review of any building, grading, or other construction permit, or other authorization required by this Development Code for the proposed use.

C. **Review and approval.** The Director shall issue the Zoning Clearance after first determining that the request complies with all Development Code provisions applicable to the proposed use. An approval may be in the form of a stamp, signature, or other official notation on approved plans, a letter to the applicant, or other certification, at the discretion of the Director.

18.71.030 - Limited Term Permit

A. **Purpose.** This Section establishes procedures and standards for the granting of Limited Term Permits for short-term activities. Compliance with applicable standards ensures that the establishment, maintenance or operation of the short-term activity would not be detrimental to the public health, safety, and welfare of person residing or working in the neighborhood of the proposed activity. **Development authorized under a Limited Term Permit will also require a Coastal Development Permit consistent with the provisions of Section 18.71.040 unless it qualifies as a Temporary Event excluded from coastal development permit requirements consistent with Section 18.71.040(C)(9).**

B. **Minor short-term activities.** A Limited Term Permit allows short-term activities that might not meet the normal development or use standards of the applicable zoning district, but may otherwise be acceptable because of their temporary nature.

C. **Limited Term Permit required.** Short-term activities shall not be established, operated, or conducted in any manner without the approval and maintenance of a valid Limited Term Permit.

D. **Review authority.** Limited Term Permits may be reviewed and approved or disapproved administratively by the Director, in compliance with this Section.

E. **Exempt short-term activities.** The following short-term activities are allowed without the necessity of obtaining a Limited Term Permit. Short-term activities that do not fall within the following categories shall comply with Subsection F. (Allowed short-term activities).

1. **Construction yards - On-site.** On-site contractors' construction yards, for an approved construction project. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the Building Permit authorizing the construction project, whichever first occurs.

2. **Emergency facilities.** Emergency public health and safety needs/land use activities, as determined by the City Manager.

3. **Events on sites approved for public assembly.** An event on the site of, or within, a golf course, religious facility, school, theater, meeting hall, or other similar facility designed, and approved by the City for public assembly.

4. **Fund-raising car washes.**

   a. Car washes on property within a commercial, industrial, or institutional zoning district, limited to a maximum of two days per month for each sponsoring organization.

   b. Sponsorship shall be limited to educational, fraternal, religious, or service organizations directly engaged in civic or charitable efforts, or to tax exempt organizations in compliance with 501(c) of the Federal Revenue and Taxation Code.

5. **Garage sales.** Garage sales, not to exceed three per year, and two consecutive days.

6. **Public property, or public right-of-way.** Construction and maintenance activities conducted on public property that are authorized by an encroachment permit.

7. **Sidewalk sales.** Sidewalk sales conducted in the Downtown.

F. **Allowed short-term activities.** A Limited Term Permit may authorize the following short-term activities within the specified time limits, but in no event for more than 12 months. Other short-term activities that do not fall within the categories defined below shall instead comply with the planning permit requirements and development standards that otherwise apply to the property.

1. **Construction yards - Off-site.** Off-site contractors' construction yards, for an approved construction project. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the Building Permit authorizing the construction project, whichever first occurs.

2. **Events.**

   a. Art and craft exhibits, carnivals, circuses, concerts, fairs, farmer's markets, festivals, flea markets, food events, open-air or drive-in theaters, outdoor entertainment/sporting events, religious revivals, rummage sales, second hand sales, swap meets, and other special events for up to five consecutive days, or four two-day weekends, within a 12-month period, allowed only on non-residentially zoned properties. These activities shall be referred to the Technical Advisory Committee (TAC) for a recommendation prior to action on the Limited Term Permit.

   ~~b. Applications for uses in the Coastal Zone shall detail the temporary nature of the use and shall not be approved unless the Director finds that the use will have no long-term effect on Coastal Zone resources, as identified in the City's certified Local Coastal Program.~~

3. **Location filming.** The temporary use of a specific site for the location filming of commercials, movies, videos, etc., for the time specified by the Director, but not to exceed 12 months. This activity shall be referred to the Technical Advisory Committee (TAC) for a recommendation prior to action on the Limited Term Permit.

4. **Model homes.** A model home or model home complex may be authorized before the completion of subdivision improvements in compliance with the following standards.

   a. The sales office and any off-street parking shall be converted back to residential use and/or removed before the issuance of the Final Occupancy Permit or within 14 days from the sale of the last parcel in the subdivision, whichever first occurs.

   b. The model home complex shall be used to sell only units within the subdivision within which the complex is located.

   c. Model home permits will be finaled and the model homes will be allowed to be open to the public only after all subdivision improvements are completed and accepted by the City.

   d. Model home sign permits will be issued only after all subdivision improvements are completed and accepted by the City.

   e. The Model home shall not be located within 100 feet of an environmentally sensitive habitat area.

   ~~e~~**f**. The review authority may require other conditions of approval deemed necessary to protect **coastal resources, and** the public health, safety, and general welfare of persons residing or working in the neighborhood.

5. **Seasonal sales lots.** Seasonal sales activities (e.g., Halloween, Thanksgiving, Christmas, etc.) including temporary residence/security trailers, on nonresidentially zoned properties, for up to 30 days. These activities shall be referred to the Technical Advisory Committee (TAC) for a recommendation prior to action on the Limited Term Permit.

6. **Temporary occupancy during construction.**

   a. **Major development projects.** Temporary structures and property may be used during the construction phase of an approved major development project (e.g., residential projects with five or more dwelling units or any commercial or industrial project). The structures or property may be used as offices or for the storage of equipment and/or tools; provided, the temporary structures are located within the City.

   b. **Minor development projects.** An existing dwelling unit or a temporary structure and property may be used during the construction phase of an approved minor development project (e.g., residential projects with four or fewer dwelling units). The structure or property may be used as a temporary residence, an office, or for the storage of equipment and/or tools.

   c. **Appropriate conditions.** The permit shall contain reasonable and necessary conditions regarding the following matters:

      (1) Provisions for adequate ingress and egress.

      (2) Provisions for the work to be performed on-site.

      (3) Provisions for the storage of asphalt, concrete, and dirt at designated sites within the subject property; provided, the applicant furnishes a schedule, acceptable to the Director, for the periodic disposal or recycling of these materials.

      (4) Provisions designed to minimize potential conflicts between the work to be performed on-site and the ordinary business and uses conducted within the City.

   d. **Length of permit.** The permit may be approved for up to 12 months following the issuance of the companion Building Permit, or upon completion of the subject development project, whichever first occurs.

   e. **Extension of permit.** The permit may be extended by the Director if a written request for extension is submitted at least 14 days before expiration of the permit and reasonable reasons are provided by the applicant to justify the requested extension (e.g., the delay was caused by reasons beyond the control of the applicant) . The permit may be extended for up to an additional 12 months.

   f. **Condition of site following completion.** All temporary structures and related improvements shall be completely removed from the subject site following expiration of the Limited Term Permit or within 30 days of completion of the development project, whichever first occurs.

7. **Temporary real estate sales offices.** A temporary real estate sales office may be established within the area of an approved subdivision, solely for the first sale of homes. An application for a temporary real estate office may be approved for a maximum of 12 months from the date of approval.

8. **Temporary structures.** A temporary classroom, office, or similar structure, including a manufactured or mobile unit, may be approved for a maximum of 12 months from the date of approval, as an accessory use or as the first phase of a development project.

9. **Temporary work trailers.** A trailer or mobile home used as a temporary work site for employees of a business, provided that:

   a. The use is authorized by a Building Permit for the trailer or mobile home, and the Building Permit for the permanent structure;

b. The use is appropriate because:

(1) The trailer or mobile home will be in place during construction or remodeling of a permanent commercial or manufacturing structure for a maximum of 12 months, or upon expiration of the Building Permit for the permanent structure, whichever first occurs; or

(2) The applicant has demonstrated that the temporary work site is a short-term necessity for a maximum of 12 months, while a permanent work site is being obtained; and

c. The trailer or mobile home is removed before final building inspection or the issuance of a Certificate of Occupancy for the permanent structure.

10. **Similar temporary activities.** A temporary activity that the Director determines is similar to the other activities listed in this Subsection, and compatible with the applicable zoning district and surrounding land uses.

G. **Development standards.** The Director shall establish the following standards based on the type of short-term activity, using the requirements of the applicable zoning district, and Articles 3 and 4 for guidance:

1. Access, floor areas, heights, landscaping, off-street parking, setbacks, signs, utilities, and other structure and property development improvements and features;

2. Measures for removal of the activity and site restoration, to ensure that no changes to the site would limit the range of possible future land uses otherwise allowed by this Development Code; and

3. Limitation on the duration of an approved "temporary structure," to a maximum of 12 months, so that it shall not become a permanent or long-term structure.

H. **Application filing and processing.** An application for a Limited Term Permit shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings and sketches, and data/materials identified in the Department handout for Limited Term Permits, and any applicable fees.

I. **Project review, notice, and hearing.**

1. **Director's review.** Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Development Code.

2. **No public notice or hearing required.** No public notice or hearing is required before the Director's decision on a Limited Term Permit.

J. **Findings and decision.** A Limited Term Permit shall be approved by the Director only after the Director first finds that the requested short-term activity complies with applicable standards in this Section.

K. **Post approval procedures.** The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on a Limited Term Permit application.

1. **Condition of the site following short-term activity.** Each site occupied by a short-term activity shall be cleaned of debris, litter, or other evidence of the temporary activity on completion or removal of the activity, and shall thereafter be used in compliance with the provisions of this Development Code. Performance security may be required before initiation of the activity to ensure cleanup after the activity is finished.

2. **Performance security for temporary structures.** Before issuance of a Limited Term Permit the applicant shall provide performance security in a form and amount acceptable to the Director to guarantee removal of all temporary structures within 30 days following the expiration of the Limited Term Permit.

18.71.040 - Coastal Development Permit

A. Purpose. The purpose and intent of this Chapter is to establish the process for the review of all development within the coastal zone of the City of Fort Bragg to ensure that it will be consistent with the provisions of the City of Fort Bragg Local Coastal Program, the California Coastal Act and the California Code of Regulations Title 14 Division 5.5. ~~This Section provides procedures for the review of the configuration, design, location, and potential impacts of proposed development, new land uses, or subdivisions, and to evaluate their compliance with the City's Local Coastal Program (LCP) in order to preserve the unique resource qualities of lands within the Coastal Zone and the associated public interest in these lands in compliance with the Coastal Act. The procedures identified in this Section apply in the Coastal Zone Combining Zone.~~

B. Applicability - Coastal Development Permit required.

1. Except as otherwise provided in this Chapter, any person wishing to perform or undertake any development in the coastal zone shall obtain a coastal development permit in accordance with the provisions of this Chapter. Development means:

On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the subdivision map act (commencing with Government Code Section 66410), and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Public Resources Code Section 4511).

The requirements for obtaining a coastal development permit shall be in addition to requirements to obtain any other permits or approvals required by other city ordinances or codes or from any state, regional or local agency.

2. A person undertaking development included in a Public Works Plan or Long Range Development Plan approved by the Coastal Commission is not required to obtain a coastal development permit from the City. Other City permits may be required.

3. All development proposed or undertaken on tidelands, submerged lands, or on public trust lands, whether filled or unfilled, or within any state university or college within the coastal zone shall require a permit issued by the California Coastal Commission in accordance with procedures specified by the Coastal Commission, in addition to other permits or approvals required by the City.

4. Where a proposed project straddles the boundaries of the City of Fort Bragg and another local jurisdiction or where a proposed project straddles the boundaries of the City's Coastal Development Permit jurisdiction area and the Coastal Commission's retained jurisdiction area, the applicant shall obtain separate Coastal Development Permits from each jurisdiction. Notwithstanding this requirement, if a project requires a CDP from both the Commission and the City, the Commission may process a consolidated permit application if the Commission, the City, and the applicant agree to consolidate the permit applications and if public participation will not be substantially impaired by that review consolidation. Pursuant to Coastal Act Section 30601.3, the standard of review for the consolidated application will be the Chapter 3 policies of the Coastal Act rather than the certified LCP.

5. Development that occurred after the effective date of the Coastal Act or its predecessor, the Coastal Zone Conservation Act, if applicable, that was not authorized in a coastal development permit or otherwise

authorized under the Coastal Act, is not lawfully established or lawfully authorized development. No improvements, repair, modification or additions to such existing development may be approved, unless the City also approves a coastal development permit that authorizes the existing development. The coastal development permit shall only be approved if the existing and proposed development, with any applicable conditions of approval, is consistent with the policies and standards of the LCP and if applicable, the access policies of the Coastal Act..

~~A Coastal Development Permit shall be required for all of the following when proposed within the Coastal Zone, unless exempted by Subsection C. (Exempt projects), below:~~

~~1. **Allowable uses and structures.** Coastal Development Permit approval shall be required for all proposed uses and structures allowed in the applicable zoning district by Article 2 (Zoning District Allowable Land Uses, Permit Requirements and Standards) for which a Building Permit is required, and for any proposed subdivision or lot line adjustment.~~

~~2. **Alteration to existing structure.** Coastal Development Permit approval shall be required for the following alterations to existing structures.~~

~~a. **Improvements subject to conditions of approval.** Any improvement to a structure where the permit issued for the original structure by the City or Coastal Commission required permit approval for any future improvements.~~

~~b. **Addition within an appealable area.** Within an area where a Coastal Development Permit decision by the City may be appealed to the Coastal Commission, an addition to an existing structure that would increase the interior floor area by 10 percent or more; or an addition of 10 percent or less, where an improvement to the structure had previously occurred in compliance with this Section; and/or the construction of an additional story (including a loft) in an existing structure.~~

~~c. **Change in intensity.** An improvement to a structure which increases or decreases the intensity of use of the structure, as determined by the Director.~~

~~d. **Conversion.** Improvements in conjunction with the conversion of an existing structure from a multi-family residential rental or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold, including a condominium conversion, stock cooperative conversion, or motel/hotel time-sharing conversion.~~

~~e. **Historic structure.** Any alteration, addition to, or demolition of any designated historic structure, or structure within a designated historic area that would require a Building Permit. Maintenance or repair to restore the structure to its original architectural character shall not require a Coastal Development Permit.~~

~~3. **Demolition.** Coastal Development Permit approval shall be required for the demolition of existing residential, commercial, industrial, and other principal structures located in the Coastal Zone.~~

~~4. **Landform alteration.** Coastal Development Permit approval shall be required for any significant alteration of landforms including removal or placement of vegetation on a beach wetland or sand dune, or within 100 feet of the edge of a coastal bluff or stream, or in areas of natural vegetation designated by the LCP as a habitat of extreme, high, or moderate sensitivity.~~

~~5. **Shoreline structure improvements.** Coastal Development Permit approval shall be required for improvements to any structure on a beach, stream, wetland, or seaward of the mean high waterline as established by the U.S. Coast and Geodetic Survey, and for repair and maintenance activities involving seawalls and similar shoreline structures.~~

~~6. **State and local agency projects and other projects.** Coastal Development Permit approval shall be required for all projects including those of State and local public agencies not exempted by Subsection C., below, or not otherwise requiring a Coastal Development Permit.~~

C. **Exempt projects.** The following projects shall not require a Coastal Development Permit.

1. Improvements to existing single-family residences.

A. Improvements to existing single-family residences except as noted below in (B). For purposes of this section, the terms "Improvements to existing single-family residences" includes all fixtures and structures directly attached to the residence and those structures normally associated with a single family residence, such as garages, swimming pools, fences, storage sheds and landscaping but specifically not including guest houses or accessory self-contained residential units.

B. The exemption in (A) above shall not apply to the following classes of development which require a coastal development permit because they involve a risk of adverse environmental impact:

1. Improvements to a single-family structure if the structure or improvement is located: on a beach, in a wetland, seaward of the mean high tide line, in an environmentally sensitive habitat area, or within 50 feet of the edge of a coastal bluff;

2. Any significant alteration of land forms including removal or placement of vegetation, on a beach, wetland, or sand dune, or within 50 feet of the edge of a coastal bluff, or in environmentally sensitive habitat areas;

3. The expansion or construction of water wells or septic systems;

4. On property not included in subsection (B)(1) above that is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated by the City or Coastal Commission, improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure or an additional improvement of 10 percent or less where an improvement to the structure had previously been undertaken pursuant to this section or Public Resources Code section 30610(a), increase in height by more than 10 percent of an existing structure and/or any significant non-attached structure such as garages, fences, shoreline protective works or docks.

5. In areas which the City or Coastal Commission has previously declared by resolution after public hearing to have a critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water using development not essential to residential use including but not limited to swimming pools, or the construction or extension of any landscaping irrigation system.

6. Any improvement to a single-family residence where the development permit issued for the original structure by the Coastal Commission, regional Coastal Commission, or City indicated that any future improvements would require a development permit.

2. Repair and Maintenance Activities.

A. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion

of, the object of those repair or maintenance activities.

B. The exemption in Section 2(A) shall not apply to the following extraordinary methods of repair and maintenance which require a coastal development permit because they involve a risk of adverse environmental impact:

1. Any method of repair or maintenance of a seawall, revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:

a. Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;

b. The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective works;

c. The replacement of 20 percent or more of the materials of an existing structure with materials of a different kind; or

d. The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, bluff, or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams.

2. Any method of routine maintenance dredging that involves:

a. The dredging of 100,000 cubic yards or more within a twelve (12) month period;

b. The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, on any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams; or

c. The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the City or the Coastal Commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use.

3. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:

a. The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;

b. The presence, whether temporary or permanent, of mechanized equipment or construction materials.

C. All repair and maintenance activities governed by Section 18.71.040(C)(2) shall be subject to the LCP permit regulations, including but not limited to the regulations governing administrative and

emergency permits. The provisions of Section 18.71.040(C)(2) shall not be applicable to those activities specifically described in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Coastal Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean.

D. Unless destroyed by natural disaster, the replacement of 50 percent or more of a single-family residence, (as measured by 50% of the exterior walls), seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance but instead constitutes a replacement structure requiring a coastal development permit.

3. Other Improvements.

A. Improvements to any structure other than a single-family residence or a public works facility except as noted below in Section (B). For purposes of this section, where there is an existing structure, other than a single-family residence or public works facility, the following shall be considered a part of that structure:

1. All fixtures and other structures directly attached to the structure.

2. Landscaping on the lot.

B. The exemption in Section (3)(A) above shall not apply to the following classes of development which require a coastal development permit because they involve a risk of adverse environmental effect, adversely affect public access, or involve a change in use contrary to the policies of the LCP.

1. Improvement to any structure if the structure or the improvement is located: on a beach; in a wetland, stream, or lake; seaward of the mean high tide line; or within 50 feet of the edge of a coastal bluff;

2. Any significant alteration of land forms including removal or placement of vegetation, on a beach or sand dune; in a wetland or stream; within 100 feet of the edge of a coastal bluff, or in an environmentally sensitive habitat area;

3. The expansion or construction of water wells or septic systems;

4. On property not included in subsection (B)(1) above that is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resource areas as designated by the LUP, an improvement that would result in an increase of 10 percent or more of internal floor area of the existing structure, or constitute an additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to Section (A) above or Public Resources Code section 30610(b), and/or increase in height by more than 10 percent of an existing structure;

5. In areas which the City or the Coastal Commission has previously declared by resolution after public hearing to have a critically short water supply that must be maintained for protection of coastal recreation or public recreational use, the construction of any specified major water using development including but not limited to swimming pools or the construction or extension of any landscaping irrigation system;

6. Any improvement to a structure where the coastal development permit issued for the original structure by the City or the Coastal Commission indicated that any future improvements would require a development permit;

7. Any improvement to a structure which changes the intensity of use of the structure;

8. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including but not limited to a condominium conversion, stock cooperative conversion or motel/hotel timesharing conversion.

4. Categorically Excluded Development.

Projects pursuant to a Categorical Exclusion Order as certified by the California Coastal Commission pursuant to Public Resources Code 30610(e).

5. Utility Connections.

The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development which has been granted a valid Coastal Development Permit; provided, however, that the City may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

6. Structures Destroyed by Natural Disaster.

The replacement of any structure, other than a public works facility, destroyed by a disaster provided that the replacement structure meets all the of the following criteria:

A. It is for the same use as the destroyed structure;

B. It does not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and

C. It is sited in the same location on the affected property as the destroyed structure.

As used in this section, "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

7. Repair, Maintenance and Utility Hook-Up Exclusions.

Repair and maintenance activities, specifically described in the document adopted by the Coastal Commission on September 5, 1978 titled "Repair, Maintenance and Utility Hook-Up Exclusions from Permit Requirements" unless the proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands or public views to the ocean.

8. Temporary Events. Temporary events as defined in Article 10 (Glossary) of this Development Code and which meet all of the criteria in (A)-(D):

A. The event will not occur between Memorial Day weekend and Labor Day or if proposed in this period will be of less than one day in duration including set-up and take-down; and

B. The event will not occupy any portion of a publicly or privately owned sandy beach or park area; public pier, public beach parking areas or the location is remote with minimal demand for public use, and there is

no potential for adverse effect of sensitive coastal resources; and

C. A fee will not be charged for general public admission and/or seating where no fee is currently charged for use of the same area (not including booth or entry fees); or, if a fee is charged, it is for preferred seating only and more than 75% of the provided seating capacity is available free of charge for general public use.

D. The proposed event has been reviewed in advance by the Director and the Director determined that it meets the following criteria:

1. The event will result in no adverse impact on opportunities for public use of or access to the area due to the proposed location and or timing of the event either individually or together with other temporary events scheduled before or after the particular event;

2. There will be no direct or indirect impacts from the event and its associated activities or access requirements on environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in this Development Code;

3. The event has not previously required a coastal development permit to address and monitor associated impacts to coastal resources.

For all other proposed temporary events, a coastal development permit must be obtained prior to the event.

9. Record of Permit Exemptions

The Director shall maintain a record of all those developments within the Coastal Zone that have been authorized as being exempt from the requirement for a Coastal Development Permit pursuant to this Chapter. This record shall be available for review by members of the public and mailed to the North Coast District office of the California Coastal Commission. The Record of Exemption shall include the name of the applicant, the location of the project, and a brief description of the project.

1. ~~**Activities of a public utility.** Activities of a public utility as identified in the repair, maintenance, and utility hookup exclusion adopted by the Coastal Commission, dated September 5, 1978.~~

2. ~~**Categorical exclusions.** Projects specifically designated as categorically excluded from the requirement for a Coastal Development Permit by Coastal Act Sections 30610(d) and (f) and implementing regulations are exempt from Coastal Development Permit requirements.~~

   a. ~~The Director shall maintain a list of projects determined to be categorically excluded from the requirements of this Section for a Coastal Development Permit.~~

   b. ~~The list shall be available for public inspection and shall include the applicant's name, project description, location, and the date of the Director's determination.~~

3. ~~**Improvements and additions to existing structures.** The following improvements and additions to existing structures are exempt from Coastal Development Permit requirements:~~

   a. ~~Fixtures and other structures, including decks, directly attached to the structure;~~

   b. ~~Residential accessory uses on the same parcel as an approved residential use, including, fences, garages, storage sheds, and swimming pools; but not including guest houses over 400 square feet, or self-contained residential units (e.g., second dwelling units);~~

   c. ~~Landscaping on the parcel; and~~

~~d. Additions resulting in an increase of less than 10 percent of the interior floor area of an existing structure.~~

~~4. **Occupancy permits.** The completion of a Final Building Inspection or the issuance of a Certificate of Occupancy.~~

~~5. **Reconstruction of a single-family dwelling.**~~

~~a. An existing single-family dwelling damaged or destroyed by natural disaster or as a result of an emergency may be rebuilt without the approval of a Coastal Development Permit; provided, the floor area of the new structure shall not exceed that of the destroyed structure by more than 10 percent, and the new structure is in the same location as the destroyed structure.~~

~~b. A floor area increase of more than 10 percent or a change in the location of the structure shall require a Coastal Development Permit to ensure that improvements are sited and designed to minimize impacts on coastal resources.~~

~~c. The new structure shall not exceed the height of the previous structure, or the maximum height allowed by the applicable zoning district, whichever is more restrictive.~~

~~6. **Repair and maintenance.**~~

~~a. A Coastal Development Permit shall not be required for ordinary repair and maintenance activities that do not result in an addition to or an enlargement or expansion of the object of the repair or maintenance.~~

~~b. The repair and maintenance of shoreline structures shall require a Coastal Development Permit.~~

~~7. **Subdivisions under Section 30106.** A Coastal Development Permit shall not be required for a Tentative Map brought about in connection with the purchase of land by a public agency for recreational purposes consistent with Coastal Act Section 30106.~~

D. **Coastal Development Permit filing and initial processing.** An application for a Coastal Development Permit shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing) **and Section 18.71.040**. The application shall be accompanied **by** the information and materials specified in the Department handout for Coastal Development Permits **and as specified in Section (D)(3)**. It is the responsibility of the applicant to provide evidence in support of the findings required by **Section 18.71.040(G)(2)** ~~Subsection F.~~, below. The application shall be filed before or concurrent with an application for any other permit required by this Development Code, and/or applications for other required City permits.

1. **Determination of permit category.** The Director shall determine if the proposed project requires a Coastal Development Permit and, if so, determine whether the project is ~~categorically excluded, is non-~~appealable **to the Coastal Commission, and determine the applicable review procedures as established herein** ~~or requires a public hearing~~. This determination may be appealed in compliance with Subparagraph 2. (Appeal of permit category determination), below.

~~a. **Categorical exclusion.** A determination that a project is categorically excluded shall comply with Subparagraph C.2 (Exempt projects - Categorical exclusions), above.~~

~~b. **Public hearing applications.** A public hearing shall be required when:~~

~~(1) This Development Code or other applicable provisions of the Municipal Code require a public hearing or other discretionary action on the permit application by the review authority; or~~

~~(2) The project is defined as appealable by Coastal Act Section 30603(a).~~

2. **Appeal of permit category determination.** ~~The Director's determination of Coastal Development Permit category in compliance with this Subsection D. may be appealed in compliance with Chapter 18.92 (Appeals) and California Code of Regulations Title 14, Section 13569.~~ Where an applicant or interested person, including the City and the Coastal Commission staff have a question as to whether a development is exempted, excluded, non-appealable, or appealable, the following procedures shall establish whether a development is exempted, excluded, non-appealable or appealable:

a. The Director or his or her designee shall make its determination as to what type of development is being proposed (i.e. appealable, non-appealable) and shall inform the applicant of the notice and hearing requirements for that particular development.

b. If the determination of the Director is challenged by the applicant or an interested person, or if the City wishes to have a Coastal Commission determination as to the appropriate designation, the Director shall notify the District Director of the North Coast District Office of the Coastal Commission by telephone or in writing of the dispute/question and shall request the Executive Director's determination as to whether the development is categorically excluded, non-appealable or appealable.

c. The Executive Director of the Coastal Commission shall, within two (2) working days of the local government request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is categorically excluded, non-appealable or appealable.

d. Where, after the Executive Director's investigation, the Executive Director's determination is not in accordance with the City Director's determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Commission shall schedule the hearing on the determination for the next Commission meeting (in the appropriate geographic region of the state) following the Executive Director's determination.

~~3. **Non-hearing applications.** A public hearing shall not be required when this Development Code, or other applicable provisions of the Municipal Code, do not require a public hearing or other discretionary action on the permit application by the review authority, and the project is a non-appealable project, as defined by Coastal Act Section 30603(a).~~

3. Application Filing Requirements. A coastal development permit application shall require submittal of at least the following items:

a. For development on a vacant lot(s), a complete title history, including evidence that the lot proposed for development is a legally created lot, and information on the date and method by which the lot was created. Where the City determines that the lot(s) was created after the effective date of the Coastal Act, or was created prior to the effective date of the Coastal Act but without complying with applicable state or local requirements, either evidence of a valid coastal development permit authorizing the subdivision or other form of lot creation must be submitted prior to filing of any application for proposed development on the lot, or the subdivision or other form of lot creation must be included as part of the application request in order to be deemed filed. In addition, a listing of any prior coastal development permits issued for the property shall be provided.

b. A project description including maps, plans, photographs, etc., of the proposed development, project site and vicinity sufficient to determine whether the project complies with all relevant policies of the Fort Bragg LCP, including sufficient information concerning land and water areas in the vicinity of the site of the proposed project, (whether or not owned or controlled by the applicant) so that the City will be adequately informed as to present uses and plans, both public and private.

c. A site plan, to scale, showing:

1. Existing and proposed property lines on the site, including all dedications, easements or recorded offers to dedicate easements, deed restrictions over or adjacent to the site and documentation for such recorded instruments.
2. Existing and proposed topography, at a contour interval appropriate to the size of the site to be developed;
3. All existing and proposed structures and their uses and distances to lot lines, driveways and approaches, roads, parking and loading areas, utilities lines (power, telephone, sewer, water), signs, fences and other improvements. If applicable, indicate an addition to an existing structure with dotted lines;
4. Major natural and man-made landscape features, including location, type, size and quantification of acreage of any trees or other natural vegetation to be planted or to be removed or made subject to thinning, irrigation or other modification by the proposed project including building pad and road/driveway areas. Identify the size and species of all trees. Label each tree to be removed with an "X" through it.
5. Potential phasing of the project should be indicated.

d. An inventory of the plant and animal species present on the project site, or those known or expected to be present on the project site at other times of the year, prepared by a qualified biologist, or resource expert. The inventory shall include an identification of any species present that have been designated as rare, threatened, or endangered species under State or Federal law. Where the initial site inventory indicates the presence or potential for sensitive species or environmentally sensitive habitat on the project site, the submittal of a detailed biological report of the site is required, consistent with the requirements of Section 18.50.050 of this Development Code.

e. Building elevations, showing:
1. All exterior walls;
2. Type of roof and other exterior materials; and
3. Location and design of roof equipment, trash enclosures, fences, exterior lights, signs and other exterior structures and equipment.

f. Drainage and Erosion Control Plans as required by Chapter 18.62 of this Development Code.

g. Applications for a coastal development permit for (i) land divisions, including lot line adjustments, mergers and issuance of conditional certificates of compliance, (ii) multi-family dwellings allowed by use permit in residential and commercial districts, (iii) mobile home parks allowed by use permit in residential districts, (iv.) residential care facilities allowed by use permit in residential, commercial, and public facilities districts, (v) organizational houses (sorority, monastery, etc.) allowed by use permit in residential districts:

(1) Evidence that adequate services exist to serve the proposed development consistent with the requirements of Coastal General Plan Public Facilities Element Policy PF-1.1.A

(2) Evidence that for existing and projected future priority uses, adequate service capacity would be retained to accommodate existing and projected future coastal dependent industrial (including commercial fishing facilities), visitor serving, and recreational priority uses in commercial, industrial, parks and recreation, and public facilities districts or land use classifications.

h. For applications for development located in areas identified by the City or State as archaeologically sensitive, a site survey performed by a qualified archaeologist consistent with the requirements of Section 18.50.030 of this Development Code, including alternatives that would avoid or minimize impacts to resources and recommended measures to mitigate impacts to resources.

i. For applications for development located in areas visible from public viewing areas, public trails, beaches or scenic roads, a visual analysis as required by Chapter 18.50.070 of this Development Code.

j. For applications for development located in hazardous areas, a geotechnical report as required by Chapter 18.54 of this Development Code.

k. The description of the development shall also include any feasible alternatives or any feasible mitigation measures available which would substantially lessen any significant adverse impact which the development may have on the environment. For purposes of this section the term "significant adverse impact on the environment" shall be defined as: "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant." (CEQA Guidelines, 14 Cal. Code of Reg. Section 15382).

l. Any other approvals required by this Development Code including, but not limited to, Design Review, Certificates of Appropriateness, Planned Development Permit, and Use Permit;

m. Any other preliminary approvals required by local, state and federal agencies;

n. Any additional information, required for specific categories of development or for development proposed for specific geographic areas where otherwise required by specific LCP policies or regulations, including but not limited to site specific filing requirements specified in: the Public Access Ordinance (Ch. ###), the Environmentally Sensitive Habitat Area Ordinance (Ch.##), the Scenic and Visual Resource Protection Ordinance (Ch.##), the Subdivision Ordinance, (Ch.##) the Hazards/Shoreline and Bluff Development Ordinance (Ch.##), the Archaeological Resources Ordinance (Ch.##), or the Water Quality Protection Ordinance (Ch. ##) of this Development Code.

4. Jurisdiction.

A. The City's jurisdiction over Coastal Development Permits does not include tidelands, submerged lands, and public trust lands as described in Section 30519(b) of the Public Resources Code and described as areas of Coastal Commission Permit Jurisdiction illustrated on the Local Coastal Program Post- Certification Permit and Jurisdiction Map as amended.

B. The Commission retains authority over coastal development permits issued by the Commission including condition compliance. Where either new development, or a modification to existing development, is proposed on a site where development was authorized in a Commission-issued coastal development permit either prior to certification of the LCP or through a de novo action on an appeal of a City-approved coastal development permit and the permit has not expired or been forfeited, the applicant shall apply to the City for the coastal development permit except for:

1) Requests for extension, reconsideration and revocation of the Commission-issued permits;
2) Development that would lessen or negate the purpose of any specific permit condition, any mitigation required by recorded documents, any recorded offer to dedicate or grant of easement or any restriction/limitation or other mitigation incorporated through the project description by the permittee, of a Commission issued coastal permit.

In any of these circumstances, the applicant must seek to file an application with the Coastal Commission for an amendment to the Commission-issued coastal development permit and authorization for the proposed new development or modification to existing development. The Coastal Commission will determine whether the application for amendment shall be accepted for filing pursuant to the provisions of Title 14 California Code of Regulations, Section 13166.

5. Proof of Ownership or Owner's Consent.

a. In addition to other information required to be submitted with an application, applicants must prove that they own the property which is the subject of the application or provide the City with written consent from the owner for the proposed development for the City to file the application.

b. Applicants for development along shoreline property or fronting a beach shall submit written evidence of a review and determination from the California State Lands Commission relative to the project's location to or impact upon the boundary between public tidelands and private property.

c. Where the applicant for a Coastal Development Permit is not the owner of a fee interest in the property on which a proposed development is to be located, but can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, the City shall not require the holder or owner of any superior interest in the property to join as a co-applicant. All holders or owners of any other interest of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant.

d. Prior to the issuance of a Coastal Development Permit, the applicant shall demonstrate the authority to comply with all conditions of approval.

E. **Public hearing.** At least one public hearing shall be held by the Commission on each application for appealable development as defined in Article 10 (Glossary) of this Development Code. ~~Notice of the hearing shall be provided, and the hearing shall be conducted by the review authority in compliance with Chapter 18.96 (Public Hearings).~~

1. Such hearing shall occur no earlier than seven (7) calendar days following the mailing of the notice required in Section (F). The public hearing may be conducted in accordance with existing City procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing.

2. If a decision on a coastal development permit is continued by the City to a time which is neither (a) previously stated in the notice provided pursuant to Section (F), nor (b) announced at the hearing as being continued to a time certain, the local government shall provide notice of the further hearings (or action on the proposed development) in the same manner, and within the same time limits as established in Section (F).

3. Any person may submit written comments to the Director on an application for a Coastal Development Permit, or on an appeal of a Coastal Development Permit, at any time prior to the close of the public hearing. If no public hearing is required, written comments may be submitted prior to the decision date specified in the public notice. Written comments shall be submitted to the Director who shall forward them to the appropriate person, Commission, or the Council and to the applicant.

F. Public Notice.

1. Notice of Appealable Developments.

a. Within ten (10) calendar days of accepting an application for an appealable coastal development permit or at least seven (7) calendar days prior to the first public hearing on the development proposal, the City shall provide notice by first class mail of pending application for appealable development. This notice shall be provided to:

1. Each applicant;

2. All persons who have requested to be on the mailing list for that development project or for coastal decisions within the local jurisdiction;

3. All property owners and residents within 100 feet of the perimeter of the parcel on which the development is proposed;

4. Local, regional and state agencies known to be interested in the project;

5. The North Coast District of the Coastal Commission.

b. The notice shall contain the following information:

1. A statement that the development is within the coastal zone;

2. The date of filing of the application and the name of the applicant;

3. The number assigned to the application;

4. A description of the development and its proposed location;

5. The date, time and place at which the application will be heard by the city approving authority;

6. A brief description of the general procedure concerning the conduct of hearing and local actions;

7. The procedures for filing local and Coastal Commission appeals, including any local fees required.

2. Notice of Non-Appealable Developments.

A. Notice of an application for a coastal development permit that is not appealable but that requires a public hearing under local ordinance shall be provided as follows:

Within ten (10) calendar days prior to the City's hearing on the application, notice shall be provided as follows:

1. If the matter is heard by the Planning Commission, notice shall be published in a newspaper of general circulation;

2. Notice by first class mail to any person who has filed a written request to be on the mailing list for that development project or for coastal decisions within the City;

3. Notice by first class mail to all property owners within 300 feet;

4. Notice by first class mail to residents within 100 feet of the proposed project;

5. Notice by first class mail to local, regional and state agencies known to be interested in the project;

6. Notice by first class mail to the North Coast District of the Coastal Commission.

B. Notice of an application for a coastal development permit that is not appealable and that does not require a public hearing under local ordinance shall be provided as follows:

Within ten (10) calendar days of accepting an application for a non-appealable coastal development permit or at least seven (7) calendar days prior to the City's decision on the application, notice shall be provided as follows:

1. Notice by first class mail to any person who has filed a written request to be on the

mailing list for that development project or for coastal decisions within the City;

2. Notice by first class mail to all property owners and residents within 100 feet of the perimeter of the parcel on which the development is proposed;

3. Notice by first class mail to local, regional and state agencies known to be interested in the project;

4. Notice by first class mail to the North Coast District of the Coastal Commission.

C. The Notice required by both Section 18.71.040(F)(2)(A) and 18.71.040(F)(2)(B) shall contain the following information:

1. A statement that the development is within the coastal zone;

2. The date of filing of the application and the name of the applicant;

3. The number assigned to the application;

4. A description of development and its proposed location;

5. The date the application will be acted upon by the City's governing body or decision-maker;

6. The general procedure of the City concerning the submission of public comments either in writing or orally prior to the City's decision;

7. A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the City's decision.

~~F~~G. **Decision on Coastal Development Permits.**

1. **Review authority.** A non-hearing Coastal Development Permit application shall be approved or denied by the Director. A Coastal Development Permit application that is required by this Section to have a public hearing shall be approved or denied by the Planning Commission.

2. **Findings.** ~~The review authority shall approve a Coastal Development Permit only when it first finds that the project complies with all applicable provisions of the Local Coastal Program and this Development Code.~~ All decisions on Coastal Development Permits shall be accompanied by written findings. The findings shall explain the basis for the conclusions and decisions of the City and shall be supported by substantial evidence in the record. Findings for approval or conditional approval shall conclude that the project as proposed, or as conditioned, conforms to the certified Local Coastal Program. If special conditions of approval are required in order to bring the project into conformance with the certified LCP, the findings shall explain how the special condition(s) avoid or mitigate the adverse effects which have been identified. The approval of any Coastal Development Permit shall be supported by the following findings:

a. The proposed development as described in the application and accompanying materials, as modified by any conditions of approval, is in conformity with the City of Fort Bragg's certified Local Coastal Program and will not adversely affect coastal resources;

b. If the project is located between the first public road and the sea, that the project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal

Act of 1976 (commencing with Sections 30200 of the Public Resources Code);

c. Feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment;

d. The proposed use is consistent with the purposes of the zone in which the site is located;

e. The proposed development is in conformance with the City of Fort Bragg's Coastal General Plan;

f. The proposed location of the use and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity; and

g. Services, including but not limited to, water supply, sewage disposal, solid waste, and public roadway capacity have been considered and are adequate to serve the proposed development;

h. Supplemental findings for projects involving geologic, flood, and fire hazards:
(1) The project, as proposed, will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons; and
(2) The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood, or fire hazards due to required project modifications, landscaping or other conditions; and
(3) There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.

i. Supplemental findings for projects located within Environmentally Sensitive Habitat Areas:
(1) The resource as identified will not be significantly degraded by the proposed development; and
(2) There is no feasible less environmentally damaging alternative; and
(3) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

j. Supplemental findings for projects located between the first public road and the sea consistent with findings required by Section 18.56.070.

3. **Conditions of approval.** In approving a Coastal Development Permit, the review authority may impose any reasonable conditions to ensure that the approval will comply with the findings required by ~~Subsection F.2~~, Section (G)(2), above. **When modifications and resubmittal of plans, additional plans, or recorded documents are required, issuance of the permit shall be deferred for a sufficient period of time to allow the Director to determine if the modified project, the additional plans, or the recorded documents comply with the conditions of approval of the permit.** The violation of any required condition shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

4. **Withdrawal.** An applicant may withdraw a Coastal Development Permit application before a final decision by the review authority. The withdrawal shall not prejudice or preclude a later application in compliance with Section 18.76.090 (Resubmittals).

~~G~~H. Final City Action on a Coastal Development Permit.

1. **Finality of City action.** The City's decision on an application for a Coastal Development Permit shall **not** be deemed final **until** ~~when~~:

   a. The City's decision on the application has been made;

   b. All required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in compliance with the certified **Local Coastal Program and, where applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act** ~~Land Use Plan as required in the implementing ordinances~~; and

   c. ~~When~~ All rights of **local** appeal identified in Chapter 18.92 (Appeals) have been exhausted.

2. **Notice procedures of Final City Action.**

   a. **Final City action.** Within seven **calendar** days of a final City action on a Coastal Development Permit application ~~(except a categorically excluded or exempt development),~~ the City shall provide notice of its action by first class mail to the **North Coast District office of the** Coastal Commission and to any person who specifically requested this notice. The notice shall include the conditions of approval, written findings, and the procedures for appeal **of the local decision** to the Coastal Commission.

   b. **Failure of City to act in a timely fashion.** If the applicant believes that the City failed to act on an application within the time limits in Government Code Sections 65950 through 65957.1, **which provide that permit applications are deemed approved if the permitting agency has not acted within 60 days and which further provide that a project cannot be deemed approved without the public notice required by law, the applicant** ~~thereby approving the development by operation of law, the person claiming the right to proceed in compliance with Sections 65950 through 65957.1~~ shall notify the City **, all interested persons,** and the Coastal Commission, in writing, of the claim that the development has been approved by operation of law. The notice shall specify the application that is claimed to be approved, ~~and~~ the time, date, and place when the application was filed and deemed complete, **and language stating the permit will be approved if the City does not act within 60 days.**

   c. **Notice of City failure to act.** When the City ~~determines~~ **receives a notice** that the time limits established in compliance with Government Code Sections 65950 through 65957.1 have expired, the City shall ~~within seven days~~ **act on the application within 60 days of receipt of the notice required by law. If the City fails to act within 60 days of receipt of the notice required by law, the City shall** ~~of the determination~~, notify **the Commission and** any person entitled to receive notice that the application has been **locally** approved by operation of law in compliance with Government Code Sections 65950 through 65957.1. The appeal period **to the Coastal Commission** for a project **locally** approved by operation of law shall begin to run only upon the receipt of the City notice in the Coastal Commission's office.

3. **Effective date.** The final action by the City on a~~n~~ **Coastal Development Permit** application for appealable development shall become effective after the ~~14~~ **ten (10)** working-day Coastal Commission appeal period, ~~in compliance with Chapter 18.92 (Appeals),~~ unless ~~any~~ **either** of the following ~~has~~ occur~~red~~:

   a. An appeal is filed in compliance with Chapter 18.92**.040** (Appeals **to the Coastal Commission**);

   b. The notice of final City action does not comply with the requirements of ~~this~~ Section **18.71.040(H)(2)(a)** or

When either of the circumstances in (a) or (b) occur, the Coastal Commission shall, within five (5) calendar days of receiving notice of that circumstance, notify the City and the applicant that the effective date of the City action has been suspended.

~~c. The notice of final City action is not received in the Coastal Commission's office and/or distributed to interested parties in time to allow for the filing of an appeal within the 20 days following the receipt of the City's notice of final action in the North Coast Office of the Coastal Commission.~~

I. Waiver of Coastal Permit Public Hearing for Minor Development [moved from 18.96.030]

This Section provides for the waiver of a public hearing on a Coastal Permit for development that is appealable to the Coastal Commission, in compliance with Public Resources Code Section 30624.9. This Section shall not be used to waive the requirement for a public hearing on any other permit required by this Development Code to have a public hearing.

1. Applicability. The Director may waive the requirement for a public hearing on a Coastal Development Permit application for a minor development that is appealable to the Coastal Commission. For purposes of this section, "minor development" means a development which the City determines satisfies all of the following requirements:

a. Is consistent with the certified Local Coastal Program;
b. Requires no discretionary approval other than **a coastal development permit** ~~Zoning Clearance or Design Review by the Director~~; and
c. Has no adverse effects, either individually or cumulatively, on coastal resources or public access to the shoreline or along the coast.

~~2. Minor development, as used in this Section, shall include single-family homes and additions to single-family homes, and other development determined by the review authority to meet the above criteria.~~

2. **Criteria for waiver.** A public hearing may be waived for minor development **only** if both of the following occur:

a. Notice that a public hearing shall be held upon request by any person is provided by the City to all persons who would otherwise be required to be notified of a public hearing by Section **18.71.040(F)** ~~18.96.020.B (Method of Notice Distribution)~~, as well as any other persons known to be interested in receiving notice; and

b. No request for public hearing is received by the City within ~~10~~ **15 working days** days from the date of the City sending the notice **required by paragraph (a)**.

3. **Content of notice.** The notice ~~shall contain all information~~ required by Section **(2)(a)** ~~18.96.020.A (Content of Notice), and~~ **shall include** a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal to the Coastal Commission any action taken by the City on a planning permit application.

4. Second residential units do not require a public hearing consistent with the applicable provisions of Government Code Section 65852.2

J. Coastal Development Permit Amendments
Upon application by the permittee, a Coastal Development Permit may be amended. Application for an amendment shall be accomplished in the same manner specified by this chapter for the initial application of the Coastal Development Permit.

~~H~~ **K.** **Post approval procedures.** The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following the decision on an application for a Coastal Development Permit.

18.71.050 - Design Review

A. **Purpose.** Design Review is intended to ensure that the design of proposed development and new land uses assists in maintaining and enhancing the small-town, coastal, historic, and rural character of the community.

B. **Applicability.** All new structures, any relocation, exterior addition(s), or changes of or to existing structures, and any other physical improvements shall be subject to Design Review, whether or not a Building Permit is required, unless exempt in compliance with Subsection B.3 (Improvements exempt from Design Review), below. Design Review shall be required in addition to all other planning permit or approval requirements of this Development Code and the Municipal Code**, including but not limited to a Coastal Development Permit**.

1. **Improvements subject to Design Review by the Commission.**

   a. The following improvements shall always require Design Review by the Commission:

      (1) A structure located within 100 feet of a coastal bluff.

      (2) A project resulting in three or more residential dwelling units on a single parcel, including apartments, condominiums, townhouses, and other multi-family residential development projects.

      (3) All nonresidential development projects, including:

         (a) Commercial, offices, and industrial structures;

         (b) Marinas and yacht harbors; and

         (c) Cultural, fraternal, quasi-public, religious, social, and similar structures for places of assembly.

      (4) The aesthetic impact of grading or filling of land.

   b. The following improvements shall require Design Review by the Commission only if in conjunction with a development project:

      (1) Removal of natural ground cover, trees, or vegetation.

      (2) Installation of a fence, wall, or retaining wall visible from a public right-of-way.

      (3) Landscaping including vegetation, irrigation systems, and low level lighting.

      (4) Signs included with plans for any project listed above.

      (5) Exterior lighting.

2. **Improvements subject to Design Review by the Director.** The following improvements shall be subject to Design Review by the Director, except when in conjunction with a development project. If in conjunction with a development project, each of the following shall be subject to review and approval by the Commission:

   a. The construction or rehabilitation/remodeling of a secondary dwelling unit or duplex;

b. The construction or rehabilitation/remodeling/addition of any detached accessory structure or garage that exceeds 16 feet in height. [*City Requested MOD*]

~~b~~c. Removal of natural ground cover, trees, or vegetation;

~~c~~d. Installation of a fence, wall, or retaining wall visible from a public right-of-way;

~~d~~e. Landscaping including vegetation, irrigation systems, and low level lighting;

~~e~~f. Signs included with plans for any project listed above, and that do not require Commission review; or

~~f~~g. Exterior lighting.

3. **Improvements exempt from Design Review.** The following improvements are exempt from Design Review:

a. One single-family dwelling on a single parcel, including any related accessory structures;

b. Structural improvements not visible from a public right-of-way;

c. Signs in compliance with Chapter 18.38 (Signs), and which are to be located on an existing structure, or as approved under another development permit;

d. Work determined by the Director to be minor or incidental within the intent and objectives of this Section; and

e. Ordinary maintenance and repair of structures.

C. **Application filing and processing.** An application for Design Review shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied the information and materials specified in the Department handout for Design Review, and the materials identified in Section E. (Requirements for submittal), below. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection G. (Findings and decision), below.

D. **Requirements for submittal.** Each plan submitted for Design Review shall be drawn to scale with all dimensions shown.

1. **Site plans.** The site plan shall show the following proposed and existing physical improvements and features:

a. All structures and other improvements on the subject parcel shall be shown demonstrating setback lines and the distance structures are from property lines.

b. The plan shall show the location of all adjoining streets including pavement, curb, and sidewalk.

c. On adjoining parcels the general location of primary and accessory structures, curb cuts, driveways and parking lots.

2. **Architectural elevations.**

a. Elevations of all sides of new structures shall be shown.

b. If the exterior of an existing structure is to be changed, all existing and proposed elevations of the structure shall be shown.

c. Exterior materials and colors of all proposed and existing structures shall be indicated or generally described. Color and material samples shall be submitted.

d. All mechanical equipment or similar features located above the roof shall be shown.

3. **Floor and roof plans.** Floor and roof plans for all structures shall be shown.

4. **Landscape plans.** A detailed landscape plan shall be submitted for the entire site, in compliance with Chapter 18.34 (Landscaping Standards).

5. **Sign plans.** A detailed sign plan shall be submitted for the entire site, in compliance with Chapter 18.38 (Signs).

6. **Visual Impact Analysis. If the project is located within areas designated as properties with potential scenic views on the Scenic View Map LC-3 in the General Plan, the required visual analysis shall include: photographs of scenic views as seen from public lands and rights-of-way, and photographic simulations wherein proposed structures are superimposed on these photographs to accurately identify the location, height, bulk and architectural features of the structures. The City may also require the erection of story poles to show the height and footprint of the building (the height at the ridgeline and all corners). [*CITY REQUESTED MOD*]**

E. **Project review criteria.** The review authority shall evaluate each application to ensure that the project:

1. Complies with the purpose and requirements of this Section;

2. Provides architectural design, building massing, and scale appropriate to and compatible with the site surroundings and the community;

3. Provides attractive and desirable site layout and design, including building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc.;

4. Provides efficient and safe public access, circulation, and parking;

5. Provides appropriate open space and landscaping, including the use of water efficient landscaping;

6. Is consistent with the General Plan, any applicable specific plan, and the certified Local Coastal Program ~~if located in the Coastal Zone~~; and

7. Complies and is consistent with the City's Design Guidelines.

F. **Findings and decision.** The review authority shall approve or disapprove an application for Design Review approval concurrently with the approval or disapproval of any other planning permit (e.g., Use Permit, Minor Use Permit, Variance or Administrative Variance, Zoning Clearance) required for the project, if the Design Review application is filed with the City at the same time. Design Review approval shall require that the review authority first find that the project, as proposed or with changes resulting from the review process and/or conditions of approval, complies with all applicable criteria identified in Subsection E. (Project review criteria), above.

1. An application for Design Review may be approved, conditionally approved, or disapproved.

2. The Director shall review construction drawings, final plans, and other similar documents for compliance with the approved Design Review, any conditions of approval, and any approved or required modifications to the approved plans.

3. A Design Review decision shall become effective upon the expiration of 10 days following the decision, unless an appeal is made in compliance with Chapter 18.92 (Appeals).

G. **Conditions of approval.** The review authority may require any reasonable and necessary conditions of approval to ensure that the project will comply with the findings required by Subsection ~~G~~F., above. The violation of any condition so imposed shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

H. **Expiration of Design Review approval.**

1. **Time limit.** Design Review approval in compliance with this Section shall lapse and become void 12 months from the date of approval, unless before the expiration of the 12 months, a Building Permit is issued and construction is commenced and diligently pursued towards completion.

2. **Exceptions.** The only exception to the above is Commission Design Review approval for a period not to exceed two years in a case where it is anticipated that the time for project development will exceed 12 months.

3. **Extension of approval**. Design Review approval may be extended by the Director for an additional period of 12 months; provided, no changes in conditions or requirements have occurred before the expiration of 12 months from the date of the original approval, and an application for an extension is filed with the Department at least 30 days before the date of expiration.

I. **Post approval procedures.** The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following the decision on an application for Design Review.

18.71.060 - Use Permit and Minor Use Permit

A. **Purpose.** A Use Permit or Minor Use Permit provides a process for reviewing uses and activities that may be appropriate in the applicable zoning district, but whose effects on a site and surroundings cannot be determined before being proposed for a specific site.

B. **Applicability.** A Use Permit or Minor Use Permit is required to authorize proposed land uses identified by Article 2 (Zoning Districts and Allowable Land Uses) as being allowable in the applicable zoning district subject to the approval of a Use Permit or Minor Use Permit. A project ~~within the Coastal Zone~~ **requiring a Use Permit or Minor Use Permit will** ~~may~~ also require a Coastal Development Permit in compliance with Section 18.71.040 (Coastal Development Permit).

C. **Review authority.**

1. **Use Permits.** Use Permits shall be approved or disapproved by the Commission.

2. **Minor Use Permits.** Minor Use Permits shall be approved or disapproved by the Director.

a. The Director may choose to refer any Minor Use Permit application to the Commission for hearing and decision.

b. A Minor Use Permit application shall be determined exempt from the California Environmental Quality Act (CEQA) in compliance with State law and Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring) or it shall be processed as a Use Permit.

D. **Application filing and processing.** An application for a Use Permit or Minor Use Permit shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall include the information and materials specified in the Department handout for Use Permits, and the following information.

1. **Fiscal and economic analysis.** An application for a warehouse retail project as defined in Article 10 (Glossary) shall include a fiscal and economic analysis.

2. **Traffic Study.** A traffic study shall be required for uses determined by the Director or City Engineer to be high trip generators.

a. The traffic study shall identify both cumulative and project-specific traffic impacts.

b. All traffic impacts shall be reduced, to the maximum extent feasible, through compliance with applicable development standards and/or conditions of approval.

It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F. (Findings and decision), below.

E. **Project review, notice, and hearing.** Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Development Code.

1. **Use Permit.**

a. **Notice and hearing.** The Commission shall conduct a public hearing on an application for a Use Permit before a decision on the application. Notice of the hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

b. **Projects requiring a Coastal Development Permit** ~~**within the Coastal Zone**~~. When the project **requires a Coastal Development Permit in addition to a Use Permit** ~~site is within the Coastal Zone~~, notice of the public hearing shall comply with the notice requirements in Section 18.71.040 (Coastal Development Permits) ~~and Chapter 18.96 (Public Hearings)~~.

2. **Minor Use Permit.** Before a decision on a Minor Use Permit, the public notice shall be provided in compliance with Chapter 18.96 (Public Hearings), and as follows.

a. **Public notice.** The notice shall state that the Director will decide whether to approve or disapprove the Minor Use Permit application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.

b. **Hearing.** When a hearing is requested, notice of the hearing shall be provided in compliance with Chapter 18.96, and the Director shall conduct the public hearing before a decision on the application in compliance with Chapter 18.96.

F. **Findings and decision.** An application for a Use Permit or Minor Use Permit may be approved subject to conditions, or disapproved by the review authority. The review authority shall approve a Use Permit or Minor Use Permit only after first finding all of the following:

1. The proposed use is consistent with the General Plan, any applicable specific plan, and the Local Coastal Program, ~~including policies and standards applicable in the Coastal Zone identified in Section 18.71.040~~;

2. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and the Municipal Code;

3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;

4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located.

5. The proposed use complies with any findings required by Section 18.22.030 (Commercial District Land Uses and Permit Requirements).

G. **Conditions of approval.** In approving a Use Permit or Minor Use Permit, the review authority may impose any conditions deemed reasonable and necessary to ensure that the approval will comply with the findings required by Subsection F. (Findings and decision), above. The violation of any required condition shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

H. **Post approval procedures.** The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on an application for a Use Permit or Minor Use Permit.

18.71.070 - Variance and Administrative Variance

A. **Purpose.** The Variance and Administrative Variance provide a process for City consideration of requests to waive or modify certain standards of this Development Code when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district.

B. **Applicability.** A Variance or Administrative Variance may be granted to waive or modify any requirement of this Development Code except: allowed land uses; residential density; specific prohibitions **or permissible use limitations** (for example, prohibited signs), or procedural requirements. **However, a**A project **requiring a Variance or Administrative Variance will** ~~within the Coastal Zone shall~~ also require Coastal Development Permit approval in compliance with Section 18.71.040 (Coastal Development Permit). **Variance or Administrative Variance approval does not replace, supercede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP other than the standards identified in subparagraph C(2) below.**

C. **Review authority.**

1. **Variance.** A Variance application shall be reviewed, and approved or disapproved by the Commission.

2. **Administrative Variance.** An Administrative Variance application shall be reviewed, and approved or disapproved by the Director.

   a. The Director may grant an Administrative Variance to reduce any of the following requirements of this Development Code up to a maximum of 10 percent:

      (1) Distance between structures;

      (2) Parcel dimensions (not including area);

      (3) Setbacks;

      (4) On-site parking, loading, and landscaping; or

      (5) Sign regulations (other than prohibited signs);

      (6) Lot coverage; and/or

      (7) Floor area ratio.

   b. The Director may choose to refer any Administrative Variance application to the Commission for hearing and decision.

D. **Application filing and processing.** An application for a Variance or Administrative Variance shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings and sketches, and data/materials identified in the Department handout for Variances or Administrative Variances. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F. (Findings and decision), below.

E. **Project review, notice, and hearing.** Each application shall be reviewed by the Director to ensure that the proposal complies with this Section, and all other applicable requirements of this Development Code.

1. **Variance.** The Commission shall conduct a public hearing on an application for a Variance before a decision. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

2. **Administrative Variances.** Before a decision on an Administrative Variance, the City shall provide notice of a public hearing in compliance with Chapter 18.96 (Public Hearings).

   a. **Initial notice.** The notice shall state that the Director will decide whether to approve or disapprove the Administrative Variance application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.

   b. **Notice and conduct of hearing.** When a hearing is requested, notice of the hearing shall be provided in compliance with Chapter 18.96 (Public Hearings), and the Director shall conduct the public hearing before a decision on the application in compliance with Chapter 18.96.

F. **Findings and decision.**

1. **General findings.** The review authority may approve a Variance or Administrative Variance only after first making all of the following findings.

   a. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Development Code deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;

   b. The approval of the Variance or Administrative Variance includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and

   c. The Variance or Administrative Variance is consistent with the General Plan, any applicable specific plan, and the Local Coastal Program. **The City shall only grant a Variance or Administrative Variance if the City determines that the means of accommodating the Variance or Administrative Variance: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Variance or Administrative Variance will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Variance or Administrative Variance.**

2. **Findings for off-site parking Variance.** The approval of a Variance to allow some or all of the parking spaces required for a nonresidential project to be located off-site, or to allow in-lieu fees or facilities instead of the required on-site parking spaces, shall require that the review authority first make both of the following findings in compliance with Government Code Section 65906.5, instead of those required by Subsection F.1 above.

   a. The Variance will be an incentive to, and a benefit for, the nonresidential development; and

   b. The Variance will facilitate access to the nonresidential development by patrons of public transit facilities, particularly guideway facilities.

3. **Reasonable accommodation.** The review authority may also grant a Variance or Administrative Variance to the site planning or development standards of this Development Code in compliance with this Section, based

on the finding that the Variance or Administrative Variance is necessary to accomplish a reasonable accommodation of the needs of a disabled person in compliance with the Americans with Disabilities Act (ADA). (Housing Element, Program H-3.9.1)

G. **Conditions of approval.** In approving a Variance or Administrative Variance, the review authority may impose any conditions deemed reasonable and necessary to ensure that the approval will comply with the findings required by Subsection F. (Findings and decision), above. The violation of any required condition shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

H. **Post approval procedures.** The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on an application for a Variance or Administrative Variance.

18.71.080 - Emergency Permit

A. **Purpose.** This Section provides procedures for the issuance of Emergency Permits deemed necessary to perform work to resolve problems resulting from a situation falling within the term "emergency" as defined in Article 10 **of this Development Code** (Glossary).

B. **Applicability.** When immediate action by a person or public agency is required to resolve an emergency, requirements to obtain the otherwise appropriate development permit may be waived by the Director upon receiving notification of the emergency, identification of the type of work required to resolve the emergency, and the location of work to be performed.

1. The Director shall not issue an Emergency Permit for any work to be conducted on any tidelands, submerged lands, or on public trust lands, whether filled or unfilled.

2. Requests for emergency work in these areas shall be referred directly to the Coastal Commission.

C. **Review authority.** The Director shall have the discretion to grant Emergency Permits in compliance with this Section, provided that the City Manager may choose to assume all responsibilities delegated to the Director pertaining to the issuance of emergency permits.

D. **Method and content of notification.** Notification of the emergency to the Director shall be by letter **or facsimile**, if time allows, or by telephone or personal contact, if time does not allow. The person notifying the Director shall report to their best knowledge:

1. The nature and location of the emergency;

2. The cause of the emergency, insofar as this can be established;

3. The remedial, protective, or preventative work required to resolve the emergency;

4. The circumstances during the emergency that appeared to justify the proposed courses of action; and

5. The probable consequences of failing to take the actions necessary to resolve the emergency.

E. **Verification.**

1. The Director shall verify that an emergency does exist **, insofar as time allows**.

2. The Director and the person or public agency that made the notification shall document the facts related to the emergency.

F. **Public notice.** The Director shall provide public notice of the proposed emergency actions, by use of radio, television, or print media, as determined to be appropriate by the Director based on the nature of the emergency.

G. **Required findings, conditions.**

1. **Findings.** ~~Before granting the Emergency Permit, the Director shall first find that:~~ **The Director may grant an emergency permit upon reasonable terms and conditions, including an expiration date and the necessity for a regular permit application later, if the Director finds that:**

   a. An emergency exists that requires action more quickly than allowed by City procedures customarily required for the processing of appropriate development permits;

   b. Public comment has been considered regarding the emergency and the proposed actions, if time allows;

   c. The work is consistent with the nature of the emergency, and the requirements of the certified Local Coastal Program ~~if located within the Coastal Zone~~; and

   d. The work proposed is the minimum action necessary to address the emergency and, to the maximum extent feasible, is the least environmentally damaging temporary alternative for addressing the emergency.

   ~~d. The work authorized by the permit qualifies for emergency exemption under CEQA.~~

2. **Conditions of approval.** If granted, an Emergency Permit shall be subject to reasonable and necessary terms and condition **and shall be a written document that includes the following information** ~~including the following.~~

   a. Language clearly indicating that the work accomplished under an Emergency Permit is considered temporary until ~~the appropriate development permit is issued for the work~~ **authorized by a follow-up regular coastal development permit and that issuance of an emergency permit shall not constitute an entitlement to the erection of permanent development or structures;**

   b. **The date of issuance and** An expiration date for the Emergency Permit; ~~and~~

   ~~c. A condition specifying the need to apply for the appropriate development permit (e.g., a Coastal Development Permit if located within the Coastal Zone) once the emergency is resolved, or within 30 days following the date of issuance, whichever first occurs.~~

   c. The scope of work to be performed;

   d. Terms and conditions of the permit;

   e. A provision stating that within 90 days of issuance of the emergency permit, a regular coastal development permit application shall be submitted and properly filed consistent with the requirements of this Chapter; and

   f. A provision that states that: The development authorized in the emergency permit must be removed unless a complete application for a regular coastal development permit is filed within 90 days of approval of the emergency permit and said regular permit is approved. If a regular coastal development permit authorizing permanent retention of the development is denied, then the development that was authorized in the emergency permit, or the denied portion of the development, must be removed. The emergency permit may contain conditions for removal of development or structures if they are not authorized in a regular coastal development permit, or

the emergency permit may require that a subsequent permit must be obtained to authorize the removal.

The violation of any condition of approval shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

H. Reporting.

1. The Director shall report, in writing or orally, to the Council at each regular meeting of the Council while an Emergency Permit is in effect. The report shall state the nature of the emergency, the progress of the work to resolve the emergency, and any other pertinent information.

2. ~~In the case of emergency actions within the Coastal Zone, the~~ **The** Director shall report, **in writing,** the issuance of Emergency Permits to the Coastal Commission within three days following the date of issuance.

3. Copies of any written report shall be available at the Council meetings and shall be mailed to all persons who have requested notification and associated reports in writing.

~~**I. Time limits.** An approved Emergency Permit shall be valid for a maximum of 60 days following the date of issuance; provided that the permit shall expire and become void seven days following the date of issuance if it is not properly exercised, or if the emergency ceases to exist.~~

~~**J. Normal permits required.** The responsible person or public agency shall apply for the appropriate development permit (e.g., Coastal Development Permit if located within the Coastal Zone) otherwise required by this Development Code within 30 days following the date of issuance of the Emergency Permit or once the emergency is resolved, whichever occurs first. Failure to file the necessary applications and obtain the development permits normally required by this Development Code shall result in enforcement action in compliance with Chapter 18.98 (Enforcement and Penalties). During the processing of the appropriate development permit applications, all work required to remedy the emergency may continue until the emergency is satisfactorily resolved.~~

18.71.090 - Planned Development Permit

A. **Purpose.** The Planned Development Permit is intended to provide for flexibility in the application of Development Code standards to proposed development under limited and unique circumstances. The purpose is to allow consideration of innovation in site planning and other aspects of project design, and more effective design responses to site features, uses on adjoining properties, and environmental impacts than the Development Code standards would produce without adjustment. The City expects each Planned Development project to be of obvious, significantly higher quality than would be achieved through conventional design practices and standards.

B. **Applicability.** A Planned Development Permit application may be filed and processed only under the following circumstances. A Coastal Development Permit ~~may~~ **shall** also be required.

1. **Minimum site area.** A Planned Development Permit may be requested for a residential, commercial, industrial, or mixed-use development on a site larger than five acres.

2. **Timing of permit.** No Building or Grading Permit shall be issued on a site for which a Planned Development Permit is proposed until the Planned Development Permit has been approved in compliance with this Section.

3. **Scope of approval.**

   a. Planned Development Permit approval may adjust or modify, where determined by the review authority to be necessary and justifiable, any applicable development standard of this Development Code (e.g., building height, setbacks, parking, street layout, etc.), provided that the approval shall not authorize a land use that is not allowed in the applicable zoning district by Article 2 **and provided that the City determines that the means of accommodating the Planned Development Permit: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Planned Development Permit will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Planned Development Permit.**

   b. A project proposing increased residential density may only be approved by the Council in compliance with Chapter 18.31 (Density Bonuses and Affordable Housing Incentives).

4. **Coastal Development Permit required.** A Coastal **Development** Permit shall be required for all Planned Development**s** ~~Permits located in the Coastal Zone~~. Procedures for obtaining a Coastal Permit ~~are~~ identified in Section 18.71.040 (Coastal **Development** Permits).

C. **Application filing and processing.** An application shall be filed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Planned Development Permit applications. It is the responsibility of the applicant to provide evidence in support of the findings, as required by Subsection F. (Commission action), below.

D. **Review authority.** A Planned Development Permit may be granted by the Commission.

E. **Project review, notice, and hearing.**

1. **Application review.** Each Planned Development Permit application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section. The Director shall submit a staff report and recommendation to the Commission for their consideration.

2. **Public hearing.** The Commission shall conduct a public hearing on an application for a Planned Development Permit before the approval or disapproval of the permit. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

F. **Commission action.** Following a public hearing, the Commission may approve or disapprove a Planned Development Permit, and shall record the decision and the findings upon which the decision is based.

1. **Required findings.** The Commission may approve a Planned Development Permit only after first finding that:

a. The project is consistent with the General Plan and any applicable specific plan, and allowed within the applicable zoning district; **The City shall only grant a Planned Development Permit if the City determines that the means of accommodating the Planned Development Permit: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Planned Development Permit will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Planned Development Permit.**

b. The project complies with all applicable provisions of this Development Code other than those modified by the Planned Development Permit;

c. The approved modifications to the development standards of this Development Code are necessary and appropriate to accommodate the superior design of the proposed project, its compatibility with adjacent land uses, and its successful mitigation of any identified environmental impacts;

d. The development authorized by the Planned Development Permit approval will be of significantly higher quality, more energy efficient, more conserving of resources, and will produce fewer and less serious environmental impacts than development that could otherwise occur in compliance with the requirements of this Development Code without adjustment.

e. The project complies with all applicable provisions of the City's Design Guidelines;

f. The project can be adequately, conveniently, and reasonably served by public facilities, services, and utilities;

g. The planning concepts and design features of the project are reasonably suited to the characteristics of the site and the surrounding neighborhood;

h. The location, size, planning concepts, design features, and operating characteristics of the project are and will be compatible with the character of the site, and the land uses and development intended for the surrounding neighborhood by the General Plan;

i. The site is adequate for the project in terms of size, shape, topography, and circumstances; and

j. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

2. **Conditions of approval.** In approving a Planned Development Permit, the Commission may impose any conditions deemed reasonable and necessary to ensure that the project will comply with the findings required by Subsection F.1.

G. Time limit and expiration.

1. A Planned Development Permit may specify a development completion period acceptable to the review authority.

2. If a time limit is not specified in the permit, the completion period shall not exceed two years.

3. If project construction has not commenced within the required time limit, the Planned Development Permit shall automatically be terminated and deemed void, with no further action required by the City.

H. Planned Development Permit amendment.

1. **Commission action on requested changes.** Any requested change in the Planned Development Permit, other than those allowed by Subparagraph 3.,below, shall be submitted to the review authority that originally approved the permit for review and approval following the same review notice and hearing procedures as for the original approval. **However, an approved change to a Planned Development Permit does not replace, supercede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.**

2. **Added conditions.** The review authority may, as a condition of approval, impose added changes or conditions on the Planned Development Permit amendment as it deems reasonable and necessary to carry out the purpose and intent of the original Planned Development Permit and this Section. **However, an approved change to a Planned Development Permit does not replace, supercede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.**

3. **Minor changes by Director.** Minor changes in the Planned Development Permit which do not involve an increase in building area, an increase in the number of dwelling units, or a change of use may be approved by the Director in compliance with Subparagraph 18.76.080 (Changes to an Approved Project). **However, an approved change to a Planned Development Permit does not replace, supercede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.**

I. Post approval procedures. The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on an application for Planned Development Permit approval. **However, the procedures contained in Chapter 18.98 of Article 9 are not part of the certified LCP and shall not govern the review and approval of coastal development permits.**

CHAPTER 18.72 - ENVIRONMENTAL IMPACT ASSESSMENT AND MITIGATION MONITORING

[MOD: Chapter 18.72 is not part of the certified City of Fort Bragg Local Coastal Program and shall not govern the review and approval of Coastal Development Permits.]

Sections:

18.72.010 - Purpose of Chapter
18.72.020 - Authority
18.72.030 - Guiding Principles
18.72.040 - Applicability
18.72.050 - Exemptions from CEQA
18.72.060 - Review Authority
18.72.070 - Time Limits
18.72.080 - Review and Determination Procedures
18.72.090 - Negative Declarations
18.72.100 - Draft Environmental Impact Reports
18.72.110 - Final Environmental Impact Reports
18.72.120 - Standards of Adequacy
18.72.130 - Findings
18.72.140 - Notice of Determination
18.72.150 - Environmental Compliance and Monitoring Program
18.72.160 - Fees and Deposits
18.72.170 - Appeal

18.72.010 - Purpose of Chapter

This Chapter implement the requirements of the California Environmental Quality Act (CEQA) by providing the City, as lead agency, with criteria, objectives, principles, and procedures for applying the requirements of CEQA to proposed projects, including the preparation and processing of Negative Declarations, Mitigated Negative Declarations, Environmental Impact Reports (EIR), and other environmental review documents for projects that are subject to CEQA. The basic purposes of CEQA, and the provisions of this Chapter are to:

A. Inform government decision makers and the public about the potential environmental effects of proposed activities;

B. Identify ways that potential environmental damage may be avoided or significantly reduced;

C. Prevent significant, avoidable environmental impacts by requiring changes in projects, either by the adoption of alternatives or the imposition of mitigation measures; and

D. Disclose to the public why a project was approved if that project could cause significant environmental effects.

18.72.020 - Authority

These guidelines are adopted to implement the California Environmental Quality Act of 1970, California Public Resources Code Section 21082 et seq., referred to in this Chapter "CEQA."

18.72.030 - Guiding Principles

The following principles shall serve as a guide for all applications submitted to the City for review and approval and determined to be projects under CEQA:

A. **Timing of review.** Environmental considerations shall be dealt with at the earliest point possible by emphasizing the use of an initial study. Any potentially adverse effects that are properly mitigated through re-design may preclude more extensive environmental review.

B. **Extent of review.** The least extensive environmental review consistent with the purpose of this Chapter shall be utilized (e.g., an Environmental Impact Report would not be required if a Negative Declaration can legitimately be prepared). In this way, sufficient environmental protection would be afforded while minimizing the project review period.

C. **Mitigation measures.** The primary goal of the environmental review process shall be to incorporate mitigation measures in the project proposal to be considered by the review authority where necessary and appropriate to reduce the potential for significant environmental impacts.

D. **Mitigation monitoring.**

1. Where mitigation of environmental impacts is required, the mitigation measures shall be monitored over time to ensure that the steps taken are adequate for the intended purpose, in compliance with Section 18.72.150 (Environmental Compliance and Monitoring Program).

2. An applicant for a project for which mitigation monitoring is required shall be responsible for all costs associated with the monitoring program, in compliance with Section 18.72.160 (Fees and Deposits).

18.72.040 - Applicability

These guidelines are intended to augment CEQA and the guidelines for implementation of CEQA (California Code of Regulations Title 14, Section 15000 et. seq.) This Chapter is not intended to replace CEQA, and full compliance with CEQA is required regardless of the provisions of this Chapter.

A. **City actions.** These guidelines shall apply to all City actions in the implementation of CEQA.

B. **Conflicting provisions.** In the event of any conflict between the provisions of this Chapter, and CEQA or the State CEQA Guidelines, CEQA and the State CEQA Guidelines shall prevail.

C. **Reference to Negative Declaration.** A reference to a Negative Declaration in this Chapter shall implicitly include a Mitigated Negative Declaration, as applicable.

18.72.050 - Exemptions from CEQA

A proposed project shall be exempt from CEQA if it is exempt by State statute (statutorily exempt), categorical exemption, general rule, or by rejection or disapproval of the project, in compliance with CEQA Guidelines Section 15061. Statutory exemptions include ministerial projects, as defined in State Guidelines Section 15369. See also Section 18.72.080.C (Statutorily and categorically exempt projects).

18.72.060 - Review Authority

A. **Negative Declarations.** A Negative Declaration shall be reviewed, and approved or disapproved by the Commission, unless the proposed project requires Council action, in which case the Council shall be the review authority.

B. **Environmental Impact Reports.** The Council shall be the review authority for EIRs.

18.72.070 - Time Limits

Time limits governing the preparation and review of CEQA documents are in CEQA Guidelines Sections 15100 through 15112.

A. **Time limits for City action.** The City shall complete and approve a Negative Declaration in not more than 180 days; and complete and certify an EIR in not more than 12 months.

B. **Determination of time limit.** The time limits in Subsection A. shall run from the date when the application for project approval is accepted by the City as complete, in compliance with Section 18.70.070 (Initial Application Review). The time limits may be waived when a project must comply with both CEQA and the National Environmental Policy Act (NEPA), or the applicant has requested or consented to a waiver of the time limits.

C. **Suspension of time limits.** An unreasonable delay by an applicant in meeting requests by the City necessary for the preparation of a Negative Declaration or an EIR shall suspend the running of the time limits identified in Subsection A., above, for the period of the unreasonable delay.

18.72.080 - Review and Determination Procedures

A. **Application content and completeness.** Each application shall contain sufficient information to allow a determination of whether environmental review is required and, if so, the type of environmental document that shall be prepared. An application without this information shall be deemed complete in compliance with Section 18.70.070 (Initial Application Review).

1. **Project description.** A planning permit application filed in compliance with Section 18.70.040 (Application Preparation and Filing) shall include a detailed project description, for City use in the preparation of an initial study to evaluate the potential environmental impacts of the project in compliance with CEQA Guidelines Section 15063(a).

2. **Additional information.** The City may require an applicant to supply additional data and information necessary for making an environmental determination, in compliance with CEQA Guidelines Section 15063(c).

B. **Preliminary determination.** Upon receipt by the City of an application for project approval, or a proposal for a public project, the Director shall make a preliminary determination as to whether environmental review in compliance with this Chapter is required, and what type of environmental document shall be required. The Director shall report the determination either to the applicable City department, if the project is ministerial or otherwise exempt from CEQA, or to the applicant or applicant's representative.

C. **Statutorily and categorically exempt projects.** A project identified by the CEQA Guidelines as statutorily or categorically exempt (CEQA Guidelines Sections 15260 through 15285, or 15300 through 15332, respectively) is not subject to the provisions of this Chapter. If the proposed project requires notice of a public hearing or other notice in compliance with other provisions of this Development Code, the notice shall also include a statement that the project is statutorily or categorically exempt, as applicable.

D. **Initial study.** An initial study shall be prepared by the Department in compliance with CEQA Guidelines Section 15063(d), to determine the required level of environmental review (e.g., Negative Declaration or an EIR). If an EIR is required, the Director may waive the requirement for an initial study.

E. **Environmental determination.** In determining whether the proposed project may have a significant effect on the environment, the City shall make its determination in compliance with CEQA Guidelines Sections 15063, 15064.7,15065, and Appendix G.

1. If the initial study or other information discloses significant adverse effects from the proposed project, the applicant may submit proposed changes in the project to mitigate the potentially adverse impacts to a less than significant level.

2. If the information shows that impacts can be avoided, or reduced to a less than significant level, the Director may determine that the project will not have a significant impact and proceed with preparation of a Negative Declaration in compliance with Section 18.72.090 (Negative Declarations), below.

3. If the information does not demonstrate that potentially significant impacts can be avoided, an EIR shall be prepared in compliance with Section 18.72.100 (Draft Environmental Impact Reports), below.

18.72.090 - Negative Declarations

A. **Notice of intent.** If the Director determines that a Negative Declaration shall be prepared:

1. A notice of intent to adopt the Negative Declaration shall be published in a newspaper of general circulation at least 21 days before either the public hearing on the project, if a hearing is required, or project approval, if no hearing is required, in compliance with CEQA Guidelines Section 15072; and

2. Notice shall be given to the County Clerk and all responsible agencies in compliance with State law (Public Resources Code Section 21080.3) and to other public agencies having jurisdiction. The Director may also give notice to persons having special expertise as provided by CEQA Guidelines Section 15072.

B. **Contents.** A Negative Declaration shall contain the following information, in compliance with CEQA Guidelines Section 15072(f):

1. A complete project description;

2. A location map for the project, including the site address;

3. A proposed finding that the project will not have a significant effect on the environment and the Initial Study that supports the finding;

4. Mitigation measures, if any, to avoid potentially significant effects, and a written agreement from the applicant agreeing to the identified mitigation measures; and

5. Where a project involves a site that the Secretary for Environmental Protection has identified as being affected by hazardous wastes, the Negative Declaration shall include a Hazardous Waste and Substances Statement in compliance with Government Code Section 65962.5.

C. **Public review period.** A proposed Negative Declaration shall be subject to a public review period in compliance with CEQA Guidelines Section 15105(b).

1. The public review period shall be 30 days for a project where a Negative Declaration is prepared and circulated to the State Clearinghouse. In these cases the notice shall be provided to the County Clerk at least 30 days before the public hearing or decision on the project.

2. A 20-day public review period shall be provided for a project that is not circulated to the State Clearinghouse,

D. **Project changes before public review.** Changes in the project description that are designed to mitigate significant environmental effects to a level of insignificance shall be agreed to by the applicant before a draft Negative Declaration is released for public review in compliance with CEQA Guidelines Section 15070(b)(1).

E. **Required findings.** In adopting a Negative Declaration, the review authority shall first determine that the project will not have a significant adverse effect on the environment, consistent with the AMandatory Findings of Significance@ in the initial study in compliance with CEQA Guidelines Section 15065, and make findings that the project will not have significant or potentially significant environmental impacts.

F. **Hearing and adoption.**

1. **Action on Negative Declaration.** A public hearing shall be required for adoption of a Negative Declaration.

a. Before making a determination on a project, the review authority shall conduct a public hearing to consider the Negative Declaration. The public hearing may be held in conjunction with a hearing on the project permit application. The hearing shall occur prior to the end of the public review period.

b. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

c. The review authority shall either adopt the Negative Declaration, or return it to the Department for further study.

d. The applicant shall address any adverse impacts identified by the review authority and may revise the project to mitigate the impacts.

2. **Switching from a Negative Declaration to an EIR.** If the review authority finds that there is substantial evidence, in light of the whole record, that the project, even if revised, may have a significant effect on the environment that cannot be mitigated or avoided, an EIR shall be prepared for the project in compliance Section 18.72.100 (Draft Environmental Impact Reports), as required by CEQA Guidelines Section 15073.5(d).

G. **Notice of Determination.** Following adoption of the Negative Declaration, a Notice of Determination shall be prepared and signed by the Director, and shall be filed with the County Clerk and with the Secretary for Resources, if required by CEQA Guidelines Section 15075. (See also Public Resources Code Sections 21080.4 and 21152(a).)

18.72.100 - Draft Environmental Impact Reports

A. **Notice of Preparation.** Immediately after determining that an EIR is required for a project, the Director shall send a Notice of Preparation (NOP) to each responsible agency by certified mail and to the State Clearinghouse, stating that an EIR is being prepared. (CEQA Guidelines Section 15082).

B. **Preparation and adequacy.**

1. **Preparation of draft EIR.** When an EIR is required, it shall be prepared by a consultant under contract to the City or by City staff, with the applicant paying for all costs of EIR preparation. If the EIR is to be prepared by a consultant, the City shall request EIR proposals under established City criteria and select a qualified consultant from respondents.

2. **Administrative review.** The Director shall review an administrative draft EIR and either determine that it is adequate and authorize preparation of the draft EIR, or determine that the administrative draft EIR is inadequate and return it to the preparer for additional work.

C. **EIR contents.** Each EIR prepared by or for the City shall include discussion of all topics required by CEQA Guidelines Sections 15120, 15122 through 15131, 15140, 15141, and 15143 through 15145. Data and conclusions may be drawn from other reports accepted by the City and appropriately referenced within the EIR. The EIR shall address all potential environmental impacts.

D. **Distribution and review.**

1. **Public review of draft EIR.** The City shall provide at least 30 days for public review of the draft EIR. A draft EIR sent to the State Clearinghouse shall include a Notice of Completion, which specifies public review period dates consistent with Clearinghouse requirements for State agency review in compliance with CEQA Guidelines Section 15085.

2. **Public notice.**

   a. Public notice of the review period shall be given in compliance with CEQA Guidelines Section 15087. (Also see Public Resources Code Section 21092).

   b. The public notice shall be published in a newspaper of general circulation, and posted in the County Clerk's office for 30 days.

   c. A Notice of Availability shall be filed with the County Clerk, all responsible and trustee agencies, and distributed to any person or organization requesting a copy, or who previously requested a copy.

E. **Public hearing required.** A public hearing shall be held to accept written and oral comments on the draft EIR.

1. The hearing shall occur during the public review period.

2. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

18.72.110 - Final Environmental Impact Reports

A. **Response to comments.** Upon completion of the public review period, the Director shall collect all comments on the draft EIR and provide them to the City's consultant or City staff. The comments and appropriate responses shall be included in the final EIR.

B. **Review.** If requested by the Director, the City's consultant or City staff shall submit for review an administrative draft of the final EIR. The Director shall either determine that it is adequate and authorize preparation of the final EIR, or determine that it is inadequate and return it to the preparer for further analysis. (CEQA Guidelines Section 15084)

C. **Certification hearing.**

1. No action shall be taken to approve a project that requires an EIR until the Council has certified that the final EIR has been prepared in compliance with CEQA, that it has been reviewed and considered by the review authority, that it represents the City's independent judgement and analysis, or if the Council determines that the final EIR is inadequate, it shall be returned to the City's consultant or City staff for further processing.

2. A public hearing shall be required for certification of a final EIR.

3. The public hearing may be held in conjunction with the hearing on the project application(s).

4. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

D. **Distribution of Final EIR.** Copies of the Final EIR shall be placed in the City Clerk's office, public library, and in other locations designated by the Director.

18.72.120 - Standards of Adequacy

A. **Sufficient degree of analysis.**

1. An EIR should be prepared with a sufficient degree of analysis to provide the review authority with the information which enables them to consider all of the potential environmental consequences in compliance with CEQA Guidelines Section 15151.

2. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is considered reasonably feasible.

3. Disagreement among experts does not make an EIR inadequate.

4. The appropriate standard for assessing the sufficiency of analysis is the degree of adequacy, completeness, and good faith effort at full disclosure.

B. **Responsibility for adequacy.** The draft and final EIRs shall reflect the City's independent judgement in compliance with CEQA Guidelines Section 15084.

18.72.130 - Findings

Before the review authority acts on a project for which an EIR has been certified, it shall certify that it has reviewed and considered the information identified in the EIR, and it shall determine whether the project would or would not have a significant effect on the environment.

A. **Required findings.** The review authority shall not approve or carry out a project where the certified EIR identifies one or more significant environmental effects, unless the review authority makes one or more of the following findings, supported by written evidence, in compliance with CEQA Guidelines Section 15091.

1. The changes or alterations, which have been required in or incorporated into the project, mitigate or avoid the significant environmental effects identified in the certified EIR.

2. The changes or alterations are within the responsibility and jurisdiction of another public agency, and the changes have been adopted by the other agency or can and should be adopted by the other agency.

3. Specific economic, social, or other considerations make unfeasible the mitigation measures or project alternatives identified in the certified EIR.

B. **Statement of Overriding Considerations.** The Council may approve a project which may result in significant adverse impacts on the environment only if the Council first adopts written findings clearly identifying the social and economic benefits that outweigh the possibility of environmental damage in compliance with CEQA Guidelines Section 15093.

1. In this case, the Council shall issue a Statement of Overriding Considerations which justifies the conclusion that the overall potential benefits outweigh the potential environmental effects.

2. The Statement of Overriding Considerations shall be supported by substantial evidence in the record in compliance with CEQA Guidelines Section 15093.

18.72.140 - Notice of Determination

A. After the approval or disapproval of a project for which a final EIR has been certified or a Negative Declaration issued, the Director shall file a Notice of Determination with the County Clerk in compliance with CEQA Guidelines Section 15094.

B. If the project requires discretionary approval from a State agency, the Notice of Determination also shall be filed with the Secretary of Resources.

18.72.150 - Environmental Compliance and Monitoring Program

A. **Purpose.** This Section establishes procedures for the environmental compliance and monitoring of project conditions imposed as a result of the certification of an EIR with mitigation measures, or the approval of a Negative Declaration based on project conditions of approval, in compliance with CEQA Guidelines Section 15097. (Also see Public Resources Code Section 21081.6.)

B. **Negative Declaration without mitigation measures.** A project with a Negative Declaration that includes no mitigation measures or project conditions does not require an environmental compliance and monitoring program, as long as the plans, specifications, actual construction, use, or operation comply with all applicable City standards and requirements.

C. **Negative Declaration with mitigation measures.** A project with a Negative Declaration that includes mitigation measures shall be processed as follows.

1. Before the application is submitted to the review authority for final action, the Director shall prepare a list of all proposed conditions of approval, including those required to reduce to levels of insignificance any identified environmental impacts, and conditions required to ensure project compliance with applicable City codes, policies, and regulations.

2. Each condition shall be written so that it is either time specific or quantifiable, and shall specify the City department or other agency responsible for monitoring compliance.

3. A copy of the proposed conditions, along with the staff report shall be provided to the applicant.

4. Following final City action to approve or conditionally approve the application, the applicant shall sign a copy of the approving action indicating full understanding of, and agreement to comply with all of the conditions.

D. **Project with EIR.** A project that requires an EIR shall be processed as follows:

1. The draft EIR shall include a proposed environmental compliance and monitoring program in compliance with CEQA Guidelines Section 15126.4, with conditions including those required to reduce to levels of insignificance any identified environmental impacts, and conditions required to ensure project compliance with all applicable City codes, policies, and regulations.

2. The proposed conditions of approval shall be incorporated into the draft EIR in a chapter or section clearly identified as containing recommended or proposed conditions of approval.

3. Each condition shall be written so that it is either time specific or quantifiable, and shall specify the City department or other agency responsible for monitoring compliance.

4. The conditions shall be part of the public and agency review process.

5. The final EIR shall include the chapter or section with the conditions revised for the final document.

6. Following final City action to approve or conditionally approve the application, the applicant shall sign a copy of the approving action indicating full understanding of, and agreement to comply with all of the conditions.

E. **Compliance with conditions.** No certificate, license, or permit for construction, use, or occupancy shall be issued by the City until the Director has verified that the project is in compliance with all applicable conditions.

1. If conditions are scheduled for compliance in phased intervals, the next phase shall not commence until the Director has determined that all approved conditions have been satisfied for the previous phases.

2. If a permit condition requires a regular or periodic report, the permit holder shall be responsible for submittal of the appropriate report before the specified date.

3. If the City requires the services of a qualified professional in order to determine compliance with conditions or reporting requirements, the permit holder shall reimburse the City for all of the costs associated with obtaining the required services.

F. **Reimbursement of monitoring costs.** The permit holder shall be required to reimburse the City for all costs associated with the environmental compliance and monitoring program.

G. **Failure to comply.** In addition to the enforcement provisions identified in Chapter 18.98 (Enforcement and Penalties) and the Municipal Code, failure to comply with all project conditions, including making payments to reimburse the City for expenses incurred in the implementation of the environmental compliance and monitoring program, shall result in the City commencing any or a combination of the following measures:

1. Issuing a Stop Work Order halting all activities until all conditions have been satisfactorily completed;

2. Seeking injunctive relief from a court of competent jurisdiction;

3. Filing a lien against the property in the amount of any moneys owed;

4. Issuing a Stop Work Order and seeking injunctive relief ordering restoration of the environment, damages, and court costs incurred in the event of damage to the environment for which mitigation measures were expressly incorporated into the project; and/or

5. Refusing to allow the construction, use, occupancy, or issuance of a Business License for any project not in compliance with its conditions of approval.

18.72.160 - Fees and Deposits

Fees to recover the estimated cost for the preparation and/or processing, and reproduction of Negative Declarations, notices, related environmental documents, other essential administrative costs, and deposits covering the cost of EIR preparation, shall be payable to the City in the amounts and at the times identified by the City's Fee Schedule.

18.72.170 - Appeal

A determination or decision relating to this Chapter may be appealed in compliance with Chapter 18.92 (Appeals).

CHAPTER 18.74 - ~~CULTURAL~~ HISTORIC RESOURCE PROTECTION

Sections:

18.74.010 - Purpose of Chapter
18.74.020 - Applicability
18.74.030 - Historic Landmark Designation
18.74.040 - Certificate of Appropriateness - Requirements
18.74.050 - Certificate of Appropriateness - Review and Approval
18.74.060 - Certificate of Appropriateness - Proposed Demolition
18.74.070 - Certificate of Appropriateness - Disaster Damage
18.74.080 - Adaptive Re-Use and other Rehabilitation Incentives
18.74.090 - Duty to Maintain and Repair
18.74.100 - Unsafe or Dangerous Condition

18.74.010 - Purpose of Chapter

A. **Purpose.** This Chapter provides procedures and requirements that are intended to protect sites and structures identified by the community as culturally and/or historically significant, that contribute to Fort Bragg's character and identity, and that should be preserved and/or restored.

B. **Benefits to be derived from historic preservation activities.** The following benefits are intended to be illustrative of those available to property owners who participate in historic preservation activities:

1. **State Historic Building Code.** Use of the State Historic Building Code (SHBC) and the Uniform Code for Building Conservation (UCBC), rather than the Uniform Building Code (UBC).

2. **Secretary of the Interior's Standards for Rehabilitation.** Use of the Secretary of the Interior's Standards for Rehabilitation.

3. **Waiver of standards**. Waiver of Development Code standards (e.g., reduced off-street parking), in compliance with Section 18.74.080 (Adaptive Reuse and Other Rehabilitation Incentives) **except that the City shall only grant a Waiver of Development Code standards if the City determines that the means of accommodating the Waiver of Development Code standards: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Waiver of Development Code standards will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Waiver of Development Code standards.**

4. ~~**Approval of a land use not otherwise allowed.** The approval of a change to a land use that is not otherwise allowed in the subject zoning district, but which is allowed in other zoning districts, in compliance with Section 18.74.080 (Adaptive Reuse and Other Rehabilitation Incentives).~~

5. **Mortgage Program tailored for rehabilitation.** The Department of Housing and Urban Development's Federal Housing Administration (FHA) has a flexible loan program that helps developers, investors, and families at all income levels to buy and restore properties in urban and rural historic districts. The program operates through FHA approved lending institutions, and the loans are insured by the FHA.

6. **Federal Financial Assistance for rural buildings.** The U.S. Department of Agriculture's Rural Housing Service offers funds for the acquisition, construction, rehabilitation, or repair of homes and apartment-style housing for low and moderate-income people in rural areas.

7. **Federal Tax Incentives.** Federal tax incentives for historic preservation for the rehabilitation of income-producing (commercial, industrial, or rental residential) structures included on the National Register of Historic Places (or those within a National Register district) through the State Historic Preservation Officer (SHPO).

8. **Financial Assistance from the National Trust Forum.** The National Trust Forum offers financial assistance in the form of grants and loans.

9. **State Tax Incentives.** California property tax abatement incentives were first enacted in 1972 and are available for use by owner-occupied residential and commercial structures (also known as the Mills Act).

18.74.020 - Applicability

A. **Compliance with chapter.** No person shall alter the exterior of, construct improvements to, or demolish any historic structure except in compliance with the provisions of this Chapter, which shall include the analysis required by the California Environmental Quality Act (CEQA) and Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring) to determine historic significance, and the effects of the proposed alterations. **The provisions of this Chapter do not replace, supercede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.**

B. **Historic resource defined.** For purposes of this Chapter, the term Ahistoric resource@ is defined as a structure or site listed in the National Register of Historic Places (either individually or as contributing to a district), a property designated as a landmark or monument, a property contributing to a district listed in the National Register of Historic Places or a landmark district, or a property identified in an intensive-level historic resources survey as qualifying for a historic designation (either individually or as part of a district).

C. **Definition of other terms and phrases.** The terms and phrases used in this Chapter are defined in Article 10 (Glossary).

D. **Responsibility to maintain.** The owner or person in control of a historic resource (e.g., structure or site) has the responsibility to maintain the resource in good repair in compliance with Section 18.74.090 (Duty to Maintain and Repair), below.

18.74.030 - Historic Landmark Designation

The Council may designate an improvement, natural feature, or site as an historic landmark and any area within the City as an historic district in compliance with this Section, based on the Council's evaluation of the age of the subject structure(s), distinguishing characteristics, distinct geographical area, familiar visual feature(s), significant achievement, and/or other distinctive features.

A. **Procedure.** The designation of an historic landmark or district on Fort Bragg's Historic Register, or the removal of an historic landmark or district from the register, shall comply with the procedures established by this Development Code for amendments (Chapter 18.94), including public notice and hearings in compliance with State law, a recommendation by the Commission, and a final decision by the Council.

B. **Permit issuance during nomination process.** No permit for any improvement or structure within a proposed historic district or relative to a nominated historic landmark shall be issued while the nomination process is pending.

C. **Initiation of nomination process.**

1. Either the City or a property owner(s) may initiate a program for nomination of a historic resource. (Program CD-6.1.6)

2. Initiation shall comply with the procedures established by this Development Code for amendments in compliance with Chapter 18.94 (Amendments).

3. The nomination/amendment, if approved, would result in a Historic District designation.

D. **Placement on the Historic Register.** The nominated district, site, or structure shall be placed on the Historic Register after being officially accepted by the Council, and the designation shall be recorded for each affected parcel in the Office of the County Recorder.

E. **Removal from the Historic Register.**

1. A designated local historic resource may only be removed from the Historic Register in the following cases:

   a. When a Certificate of Appropriateness has been approved for demolition; or

   b. After five years of being designated, the property owner may submit a Ade-nomination statement,@ outlining reasons for removal from the Register. The de-nomination request shall be processed in compliance with the procedure for nomination listed above. The de-nomination statement shall provide written proof and documentation that the findings used to designate the structure were largely in error, or that new information has been discovered, material to the decision to designate the resource, which was not discovered through the exercise of due diligence at the time of the original designation.

2. If delisting a designated resource is proposed, the lead agency shall conduct environmental review in compliance with the California Environmental Quality Act (CEQA) and Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring), as they relate to historic resources.

18.74.040 - Certificate of Appropriateness - Requirements

A. **Purpose.** A Certificate of Appropriateness (COA) is intended to protect structures, improvements, natural features, objects, and areas of architectural, cultural, economic, historic, political, and social importance from unnecessary and/or inappropriate alteration, demolition, or removal.

B. **Applicability.**

1. **COA required.** A COA is required for the alteration, demolition, moving, or removal of any landmark or structure designated on the City's Historic Register, any individual historic resource, or any contributing historic resource within a historic district, and for any alteration, demolition, moving, or removal of any potential historic resource identified through the City's review of a land use and/or development permit application or CEQA review, by the City, any agent of the City, or a private party.

2. **Activities exempt from a COA.** Activities that are exempt from the requirements for a COA are interior remodeling and ordinary repair and maintenance activities that do not alter the physical features or architectural appearance of the exterior of a historic resource.

3. **A COA shall:**

   a. Be required in addition to and processed concurrently with any other permits required by this Development Code; and

b. Accompany any permit or any work otherwise altering the exterior architectural features or appearance of the resource.

4. **Alteration defined.** For the purposes of this Chapter, the term Aalteration@ shall be defined as any act or process, through private or public action, that changes the specified character defining a historic resource or significant physical features or architectural appearance of the exterior of a historic resource, including additions, new construction, reconstruction, or removal of any resource.

5. **Changes in character defined.** For the purposes of this Chapter, the phrase Achanges in character@ shall be
defined to include modification of the exterior of a structure, architectural detail, surface paving, the addition of new structures, the cutting or removal of trees, landscaping and other natural features, the disturbance of archaeological sites or areas, and the placement or removal of any significant objects (e.g., fences, landscaping, and accessories, light fixtures, plaques, signs) affecting the significant visual or historical qualities of the property.

6. **Waiver of development standards.** When approving a COA, the review authority may allow, as a form of incentive, a waiver of specified development standards for a designated historic resource, in compliance with Section 18.74.080 C. (Types of incentives allowed) **except that the City shall only grant a Waiver of development standards if the City determines that the means of accommodating the Waiver of development standards (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Waiver of development standards will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Waiver of development standards.**

C. **Application preparation and filing.** A COA application shall be filed with the Department. The application shall include plans and specifications showing the proposed change in architectural appearance, color and texture of materials, the proposed architectural design of the structure, and any additional information identified in the Department handout for Certificates of Appropriateness, or as may be required by the Director. The application shall also show the relationship of the proposed work to the surrounding environs. A COA application may propose discreet alterations of a historic resource or may propose a long-term plan of rehabilitation and preservation of a particular resource.

D. **Application for demolition.** An application for demolition of a historic resource, a structure within a historic district, or for new construction on a historic resource property shall include plans and specifications for the proposed new structure or addition and shall include information pertaining to landscaping, massing, relationship to site and streetscape, scale, and signs. The application shall be accompanied by any additional information identified in the Department handout for Certificates of Appropriateness, or as may be required by the Director for an informed evaluation of the proposed work.

E. **Within a historic district.**

1. Both individual resources and contributing resources are subject to all Certificates of Appropriateness findings and requirements.

2. Non-contributing resources are not subject to the requirements of this Section, but will be reviewed to ensure that proposed development on the non-contributing property will not degrade the historical character of the historic district.

F. **CEQA.** The review and approval of a COA shall require environmental review in compliance with the California Environmental Quality Act (CEQA) and Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring), as they relate to historic resources.

G. **Approval of a COA does not replace, supercede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP other than the standards identified in Section 18.74.080(C)..**

18.74.050 - Certificate of Appropriateness - Review and Approval

A public hearing shall be scheduled for a COA as soon as practicable after receipt of the application.

A. **Public notice and hearing required.** Notice of the public hearing shall be given at least 10 days before the hearing by mailing to the property owner of record and all owners of property within 300 feet of the exterior boundaries of the subject site, and by publication in a newspaper of general circulation within the City in compliance with Chapter 18.96 (Public Hearings).

B. **Review and approval.**

1. **Authority of the Commission.** The Commission may approve or disapprove a COA, in whole or in part. Notice of the Commission's decision shall be sent to the applicant and owners and occupants of the subject property within 10 days of the date of the decision.

2. **Authority of the Director.**

   a. The Director may approve a COA for a proposal for minor architectural elements and details, paint or other colorings or finishes, minor site improvements, or signs.

   b. The Director may also approve fences, replacement in-kind of windows, doors, roofs, or exterior materials, or proposals which are determined by the Director to be ordinary maintenance or repair, and which are conducted in a manner that preserves the archaeological, cultural, and historic value of the historic resource through conformance with any applicable prescriptive standards and/or design guidelines adopted by the City, and/or the guidelines of the Secretary of the Interior's Standards for Rehabilitation.

   c. Director approval of a COA shall first require making all of the findings required by Subsection D. (Findings for Certificate of Appropriateness).

   d. Minor changes or modifications to a COA can be approved by the Director, even if the Director was not the review authority.

   e. The Director may defer action and refer a COA application to the Commission for a hearing and final decision.

3. **Criteria for review.**

   a. In evaluating a COA application, the review authority shall use any applicable design guidelines and the Secretary of the Interior's Standards for Rehabilitation and shall consider the factors (e.g., the existing and proposed architectural style, arrangement, color, design, materials, and texture to be used) with regard to the original distinguishing architectural characteristics of the historic resource.

   b. In addition, the Director may require that the proposed work be reviewed by a preservation architect.

   c. Wherever feasible, the State Historic Building Code (SHBC) and the Uniform Code for Building Conservation (UCBC) shall be used in allowing any alteration to a historic resource.

C. **Investigation for COA.** The review authority may require the applicant to furnish material evidence, including detailed and fully dimensioned plans, architectural drawings and sketches, and data/materials identified in the Department handout for Certificates of Appropriateness, or as may be required by the Director. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection D (Findings for Certificate of Appropriateness), below.

D. **Findings for Certificate of Appropriateness.**

1. **Alterations, generally.** A COA shall be issued for a proposed alteration only if the review authority first finds that:

   a. The proposed work will neither adversely affect the significant architectural features of the historic resource nor adversely affect the character or historic, architectural, aesthetic interest, or value of the historic resource and its site;

   b. The proposed work conforms to any prescriptive standards and design guidelines adopted by the City for the particular resource, and to the Secretary of the Interior's Standards for Rehabilitation, and does not adversely affect the character of the historic resource; and

   c. In the case of construction of a new improvement upon a historic resource property, the use and design of the improvement shall not adversely affect, and shall be compatible with, the use and design of existing historic resources within the same historic district.

   d. The City shall only grant a COA if the City determines that the means of accommodating the COA (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a COA will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the COA.

2. **Alterations found not to be adverse.** The effect of alteration on a historic resource that would otherwise be found to be adverse may be considered not adverse for the purpose of this Section when the alteration is:

   a. Limited to the rehabilitation or restoration of improvements; and

   b. Conducted in a manner that preserves the archaeological, cultural, and historic value of the historic resource through conformance with any prescriptive standards and design guidelines adopted by the City for that historic resource, historic resource property, or historic district, and to the Secretary of the Interior's Standards for Rehabilitation.

E. **Conditions for Certificate of Appropriateness.** The review authority may approve a COA subject to any condition deemed reasonable, necessary, or desirable to effect the purposes of this Chapter. The conditions shall be covenants running with the land.

F. **Period of validity of Certificate of Appropriateness.**

1. A COA shall become void unless construction is commenced within 24 months from the date of approval.

2. A COA may be extended by the Director for an additional 24 months by applying to the Department a minimum of 30 days before expiration of the COA.

3. A COA may be extended only once, and a new COA is required thereafter.

4. If the project is not completed within 24 months after the expiration of the last Building Permit, a new COA shall be required to complete the work.

18.74.060 - Certificate of Appropriateness - Proposed Demolition

The following requirements shall apply in cases involving the proposed demolition of a historic resource, in addition to all other applicable provisions of this Chapter.

A. **Research required.** Appropriate archival research shall be conducted to determine the cultural and historic significance of any historic resource proposed for demolition in compliance with this Section. All costs associated with the research effort shall be paid for by the project proponent.

B. **Required findings.** Following a public hearing conducted in compliance with Chapter 18.96 (Public Hearings), the Commission shall approve a COA for the demolition of a historic resource only in conjunction with the concurrent approval of a proposed replacement project, and only after first making all of the following findings:

1. The historic resource cannot be remodeled, rehabilitated, or re-used in a manner that would allow:

   a. A reasonable use; or

   b. A reasonable rate of return.

2. The repair and/or renovation of the historic resource is not feasible or the Building Official has determined that the structure represents an imminent safety hazard. (Program CD-6.2.3)

3. Disapproval of the application will diminish the value of the subject property so as to leave substantially no value.

C. **Justifiable hardships.** Personal, family, or financial difficulties, loss of prospective profits and Building Code violations shall not justify the issuance of a COA in compliance with Subsection D. (Economic hardship). below.

D. **Economic hardship.**

1. **Only in cases of economic hardship.** Demolition that is not in compliance with the findings required by Subsection B., above, may be approved only in cases of economic hardship.

2. **Economic hardship defined.** A substantial cost to the property owner that is patently unreasonable in comparison to the benefit conferred to the community should the owner be limited to following the guidelines for preserving or protecting the subject property.

3. **Required findings.** In order to approve demolition on the basis of economic hardship, the Commission shall first find all of the following:

   a. The sale or rental of the property is impractical when compared to the cost of holding the property for uses allowed in the subject zoning district;

   b. An adaptive reuse study has been conducted and found that utilization of the property for lawful purposes is prohibited or impractical;

   c. Disapproval would substantially diminish the value of the property;

   d. Disapproval would unreasonably damage the owner of the property in comparison to the benefit conferred on the community;

e. All means involving City sponsored incentives (e.g., amendments to this Development Code, Building Code modifications, financial assistance, and/or grants) have been explored to relieve the economic hardship;

f. Without approval of the proposed construction, demolition, exterior alteration, remodeling, or removal, the reasonable use of or return from a designated landmark or property within an historic district will be denied to a property owner; and

g. In the case of a proposed demolition, the Director shall make an additional finding that the designated landmark cannot be remodeled or rehabilitated in a manner that would allow a reasonable use of or return from the property to the owner.

E. Effect of demolition.

1. If approval of a COA will result in the demolition of a historic resource, the applicant shall be required to memorialize the resource proposed for demolition in compliance with the standards of the Historic American Building Survey (HABS).

2. The documentation may include an archaeological survey, floor plans, measured drawings, photographic records, or other documentation specified by the Commission. (Program CD-6.2.2)

3. When appropriate, the Commission may require that a memorialization of the resource be incorporated into the proposed redevelopment of the site including the following:

   a. Book or pamphlet;

   b. Photographic display;

   c. Small museum or exhibit;

   d. Use of original architectural fixtures; and/or

   e. Other methods deemed appropriate by the Commission.

F. 120-day waiting period. If the COA is approved, the demolition shall be allowed only after the 120-day waiting period has expired in order to allow interested parties time to purchase and move the historic resource.

18.74.070 - Certificate of Appropriateness - Disaster Damage

A COA is required to add to, alter, demolish, reconstruct, repair, replace, or restore, a disaster-damaged historic resource in compliance with this Development Code, except where the Building Official determines that an unsafe or dangerous condition exists in compliance with Section 18.74.100 (Unsafe or Dangerous Condition), below.

18.74.080 - ~~Adaptive Reuse and Other~~ Rehabilitation Incentives

A. Purpose.

1. The rehabilitation incentives provided by this Section are intended to encourage the maintenance, preservation, and rehabilitation of historic resources in the City, recognizing that maintaining and rehabilitating a historic resource places increased burdens on the affected property owner.

2. These rehabilitation incentives are intended to reduce those burdens so that property owners will be encouraged to invest in maintaining the City's historic resources.

B. Applicability.

1. Upon designation of a structure or improvement as a designated historic resource, the property owner may apply to the City for guidance and assistance in rehabilitating the resource.

2. The application for rehabilitation incentives is considered the necessary planning permit; the applicant need not submit additional applications for other permits required by this Development Code, but shall comply with any City requirements for a Building Permit, Grading Permit, etc.

C. Types of incentives allowed. The Commission or Council may grant any or all of the following rehabilitation incentives.

~~1. Adaptive reuse, including the approval of a change to a land use that is not otherwise allowed in the subject zoning district, but which is allowed in other zoning districts;~~

~~2~~1. Mills Act Agreements;

~~3~~2. Permit fee waivers; and/or

~~4~~3. Reduction and/or substantial modification in the development standards of this Development Code **except that the City shall only grant the rehabilitation incentives if the City determines that the means of accommodating the rehabilitation incentives (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating the rehabilitation incentives will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the rehabilitation incentives.**

D. Application content. Applications shall include the information required by the Director.

E. Review and approval of rehabilitation incentives.

1. Hearing and action.

a. The review authority shall hold a public hearing to determine the eligibility of a property for rehabilitation incentives and shall, by resolution, approve or disapprove any incentives.

b. The action of the Commission on a Mills Act agreement shall be a written recommendation to the Council. The Council has final approval authority in Mills Act decisions.

c. Public notice for the hearing shall comply with State law and Chapter 18.96 (Public Hearings).

2. Required findings for approval. The review authority may recommend or grant rehabilitation incentives, only after first making all of the following findings:

a. Findings for all incentives.

(1) Each incentive to be granted serves to compensate the property owner for the increased burden, in terms of maintenance and expense, that the rehabilitation would entail;

(2) No approved incentive would impair the aesthetic, architectural, or historic integrity of the resource; and

(3) No proposed incentive would be detrimental to the public health, safety, or general welfare.

(4) The City shall only grant the rehabilitation incentives if the City determines that the means of accommodating the rehabilitation incentives (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating the rehabilitation incentives will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the rehabilitation incentives.

~~b. **Findings for adaptive reuse.** In addition to the above findings, the review authority shall first make the following findings before granting approval of an adaptive reuse:~~

~~(1) The change of use would occupy no more floor area than the original use;~~

~~(2) The proposed use would not significantly impair the physical character of the area in which it is located; and~~

~~(3) The change of use would result in substantial restoration of the significant and architectural features or exterior architectural appearance of the resource, and/or will result in a maintenance plan that will ensure the upkeep and continued~~ maintenance of the resource over the expected life of the project.

3. **Conditions of approval.** In approving rehabilitation incentives, the review authority may impose any conditions of approval deemed reasonable and necessary to ensure compatibility between the new use and the surrounding area.

18.74.090 - Duty to Maintain and Repair

A. **Responsibility to maintain and repair.** The owner, occupant, or other person in actual charge of a historic resource shall keep in good repair all of the exterior portions of the improvement, structure, and all interior portions whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature and any other specifically designated features of the property.

B. **Failure to maintain.** If periodic maintenance and upkeep is not done, and the resource falls into disrepair, the fact that it is in disrepair may not be used as justification for demolition or any other alteration which would cause adverse effect as defined in this Chapter.

18.74.100 - Unsafe or Dangerous Condition

A. **Imminent hazard.** In the case of damage to a structure that is the result of an isolated incident, the Director may approve a COA for a structure for which there is a threat of imminent hazard as determined by the Building Official, without public notice.

B. **Widespread damage.** In the case of widespread damage to structures throughout the City (e.g., from an earthquake), the Director shall stay all notices to demolish designated or potential historic resources, including all structures in designated or potential districts, until a structural engineer with expertise in the restoration of historic structures has evaluated the nature and extent of the damage to each structure, and recommended steps to stabilize each structure.

C. **Evaluation of damage.** The City shall isolate damaged structures to allow persons with appropriate expertise to further evaluate the damage.

D. **Action in case structure cannot be stabilized.** In cases where a structural engineer with expertise in the restoration of historic structures has determined that the structure cannot be stabilized, the Director may issue a COA for the demolition of one or more structures.

CHAPTER 18.76 – PERMIT IMPLEMENTATION, TIME LIMITS, AND EXTENSIONS

Sections:

18.76.010 - Purpose of Chapter
18.76.020 - Effective Date of Permits
18.76.030 - Final City Action on Permits within the Coastal Zone
~~18.76.040 - Applications Deemed Approved~~
18.76.050 - Permits to Run with the Land
18.76.060 - Performance Guarantees
18.76.070 - Time Limits and Extensions
18.76.080 - Changes to an Approved Project
18.76.090 - Resubmittal
18.76.100 - Covenants of Easements

18.76.010 - Purpose of Chapter

This Chapter provides requirements for the implementation or "exercising" of the permits required by this Development Code, including time limits and procedures for granting extensions of time.

18.76.020 - Effective Date of Permits

A. **Non-appealable development.** The approval of a planning permit for a project that is not appealable to the Coastal Commission shall become effective on the 11th day following the date of application approval by the appropriate review authority, where no appeal of the review authority's action has been filed in compliance with Chapter 18.92 (Appeals).

B. **Appealable development.** The approval of a **Coastal Development Permit** ~~planning permit~~ for a project that is appealable to the Coastal Commission shall become effective upon the expiration of the Coastal Commission's 10-working-day appeal period which begins the day after the receipt by the North Coast office of the California Coastal Commission of adequate notice of the City's final action, **if** ~~and where~~ no appeal of the review authority's action has been filed by two Coastal Commissioners, the applicant, or any aggrieved person in compliance with the Coastal Act.

18.76.030 - Final City Action on Coastal Development Permits ~~within the Coastal Zone~~

Final City action on **Coastal Development Permits** ~~permits within the Coastal Zone~~ shall comply with Section 18.71.040 **(H)**~~G~~. (Final City Action on a Coastal Development Permit).

~~18.76.040 - Applications Deemed Approved~~

~~A planning permit application for a parcel outside of the Coastal Zone that is deemed approved by operation of law in compliance with State law (Government Code Section 65956) shall be subject to all applicable provisions of this Development Code, which shall be satisfied by the applicant before a Building Permit is issued or a land use not requiring a Building Permit is established.~~

18.76.050 - Permits to Run with the Land

An Administrative Variance, Design Review, Minor Use Permit, Planned Development Permit, Use Permit, **Coastal Development Permit,** or Variance approval that is granted in compliance with Chapter 18.71 (Permit Review and Decision) shall be deemed to run with the land through any change of ownership of the subject site, from the effective date of the permit, except in any case where a permit expires and becomes void in compliance with Section 18.76.070 (Time Limits and Extensions), below. All applicable conditions of approval shall continue to apply after a change in property ownership.

18.76.060 - Performance Guarantees

A. Deposit of security.

1. As a condition of approval of an Administrative Variance, Design Review, Minor Use Permit, Use Permit, or Variance, upon a finding that the City's health, safety, and welfare warrant, the review authority may require the execution of a covenant to deposit security, and the deposit of security in a reasonable amount to ensure the faithful performance of one or more of the conditions of approval of the Administrative Variance, Design Review, Minor Use Permit, Use Permit, or Variance in the event that the obligor fails to perform.

2. The security shall, as required by law or otherwise at the option of the City, be in the form of cash, a certified or cashier's check, or a performance bond executed by the applicant and a corporate surety authorized to do business in California and approved by the City.

3. The security shall remain in effect until all of the secured conditions have been performed to the satisfaction of the City Engineer in conjunction with the Director.

Any security required in compliance with this Section shall be payable to the City.

B. Release of security. Upon satisfactory compliance with all applicable provisions of this Section, the security deposit shall be released.

C. Failure to comply.

1. Upon failure to perform any secured condition, the City may perform the condition, or cause it to be done, and may collect from the obligor, and surety in case of a bond, all costs incurred, including administrative, engineering, legal, and inspection costs.

2. Any unused portion of the security shall be refunded to the obligor after deduction of the cost of the work.

3. To the extent that the Director can demonstrate that the obligor willfully breached an obligation in a manner that the obligor knew, or should have known, would create irreparable harm to the City, the entire amount of the bond or deposit may be withheld.

4. The Director's determination may be appealed to the Council by the obligor by filing an appeal with the City Clerk within 10 days after the decision to withhold the bond, in compliance with Chapter 18.92 (Appeals).

18.76.070 - Time Limits and Extensions

A. **Time limits.**

1. Unless a condition of approval or other provision of this Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with Subsection B., below.

2. The permit shall not be deemed "exercised" until the permittee has substantially commenced the approved activity or has actually commenced the allowed use on the site in compliance with the conditions of approval.

3. After it has been exercised, a planning permit shall remain valid and run with the land in compliance with Section 18.76.050 (Permits to Run with the Land), as long as a Building Permit is active for the project, and after a final building inspection or Certificate of Occupancy has been granted.

4. If a project is to be developed in approved phases, each subsequent phase shall be exercised within 24 months from the date that the previous phase was exercised, unless otherwise specified in the permit, or the permit shall expire and become void, except where an extension of time is approved in compliance with Subsection B., below. If the project also involves the approval of a Tentative Map, the phasing shall be consistent with the Tentative Map and the permit shall be exercised before the expiration of the Tentative Map, or the permit shall expire and become void.

B. **Extensions of time.** Upon written request by the applicant, the Director may extend the time for an approved planning permit to be exercised.

1. **Filing and review of request.**

   a. **Time for filing.** The applicant shall file a written request for an extension of time with the Director before the expiration of the permit, together with the filing fee required by the City's Fee Schedule.

   b. **Evidence to be provided.** The Director shall determine whether the applicant has made a good faith effort to exercise the permit. The burden of proof is on the applicant to establish, with substantial evidence, that circumstances beyond the control of the applicant (e.g., demonstrated problems with completing the acquisition of the parcel, poor weather during periods of planned construction, etc.) have prevented exercising the permit.

   c. **Public hearing.** If the original approval required a public hearing, the Director shall hold a public hearing on a proposed extension of time, after providing notice of the public hearing in compliance with Chapter 18.96 (Public Hearings).

2. **Action on extension request.** A permit may be extended as follows for no more than two additional 12-month periods beyond the expiration of the original approval; provided, the Director first finds that there have been no changes in the conditions or circumstances of the site or project so that there would have been grounds for disapproval of the original project.

   a. **Director's action.** Upon good cause shown, the first 12-month extension may be approved, approved with modifications or disapproved by the Director, whose decisions may be appealed to the Commission, in compliance with Chapter 18.92 (Appeals).

   b. **Commission action.** One subsequent 12-month extension may be approved, approved with modifications, or disapproved by the Commission, whose decisions may be appealed to the Council in compliance with Chapter 18.92 (Appeals).

C. **Effect of expiration.** After the expiration of a planning permit in compliance with Subsection A.1, no further work shall be done on the site until a new planning permit and any required Building Permit or other City permits are first obtained.

~~18.76.080 - Changes to an Approved Project~~

~~Development or a new land use authorized through a planning permit granted in compliance with this Development Code shall be established only as approved by the review authority, and in compliance with any conditions of approval, except where a change to the project is approved as follows.~~

~~A. **Application.** An applicant shall request a proposed change in writing, and shall also furnish appropriate supporting information and materials explaining the reasons for the request. A change may be requested either before or after construction, or establishment and operation of the approved land use.~~

~~B. **Public hearing.** If the original project approval required public notice and a hearing, public notice shall be provided, and the review authority shall conduct a public hearing on the requested changes in compliance with Chapter 18.96 (Public Hearings).~~

~~C. **Changes approved by the Director.**~~

~~1. The Director may authorize one or more changes to an approved site plan, architecture, or the nature of the approved land use where the Director first finds that the changes:~~

~~a. Are consistent with all applicable provisions of this Development Code;~~

~~b. Do not involve a feature of the project that was a basis for or subject of findings in a Negative Declaration or Environmental Impact Report for the project;~~

~~c. Do not involve a feature of the project that was specifically addressed or was the subject of conditions of approval for the project or that was a specific consideration by the review authority (e.g., the Director, Commission, or Council) in the project approval; and~~

~~d. Do not result in an expansion of the land use.~~

~~2. The Director may choose to refer any requested change to the original review authority for review and final action.~~

~~D. **Changes approved by original review authority.** A proposed change that does not comply with the criteria in Subsection C. shall only be approved by the original review authority for the project through a new permit application processed in compliance with this Development Code.~~

18.76.090 - Resubmittal

A. **Resubmittal after disapproval with prejudice.**

1. The review authority may disapprove an application for a discretionary planning permit, or amendment, on the grounds that two or more similar applications for the same parcel have been disapproved in the past two years, or that another cause exists for limiting the refiling of the application.

2. For a period of 12 months following the date of the disapproval with prejudice of a discretionary planning permit or amendment, no application for the same or substantially similar planning permit or amendment shall be filed for the same site, except where the Director determines that substantial new evidence or proof of changed circumstances warrants further consideration.

B. **Resubmittal after disapproval without prejudice.** There shall be no limitation on subsequent applications for a site where a project was disapproved without prejudice.

C. **Director's determination, appeal.** The Director shall determine whether a new application is for a planning permit, or amendment that is the same or substantially similar to a previously approved or disapproved permit or amendment, and shall either process or reject the application in compliance with this Section. The Director's determination may be appealed to the Commission, in compliance with Chapter 18.92 (Appeals).

18.76.100 - Covenants of Easements

A. **Applicability.** When necessary to achieve the land use goals of the City, the City may require a property owner holding property in common ownership to execute and record a Covenant of Easement in favor of the City, in compliance with State law (Government Code Section 65870 et seq.) A Covenant of Easement may be:

1. Required to provide for emergency access, ingress and egress, landscaping, light and air access, open space, parking, or for solar access; and

2. Imposed as a condition of approval by the review authority.

B. **Form of covenant.** The form of the Covenant shall be approved by the City Attorney, and the Covenant of Easement shall:

1. Describe the real property subject to the easement and the real property to be benefitted by the easement;

2. Identify the City approval or planning permit granted that relied on or required the Covenant; and

3. Identify the purposes of the easement.

C. **Recordation.** A Covenant of Easement shall be recorded in the County Recorder's Office.

D. **Effect of covenant.** From and after the time of its recordation, a Covenant of Easement shall:

1. Act as an easement in compliance with Civil Code Section 801 et seq., except that it shall not merge into any other interest in the real property. Civil Code Section 1104 shall be applicable to the conveyance of the affected real property; and

2. Impart notice to all persons to the extent afforded by the recording laws of the State.

Upon recordation, the burdens of the Covenant shall be binding on, and the Covenant shall benefit all successors-in-interest to the real property.

E. **Enforceability.** A Covenant of Easement shall be enforceable by the successors-in-interest to the real property benefitted by the Covenant, and the City. Nothing in this Section creates standing in any person, other than the City, and any owner of the real property burdened or benefitted by the Covenant, to enforce or to challenge the Covenant or any requested amendment or release.

F. **Release of covenant.** A Covenant of Easement may be released by the Director, or by another appropriate review authority in the event of an appeal, at the request of any person, including the City, or an affected property owner.

1. **Process for release.** The release of a Covenant of Easement shall require that the review authority first:

   a. Conduct a noticed public hearing in compliance with Chapter 18.96 (Public Hearings); and

   b. Find that the Covenant on the site is no longer necessary to achieve the land use goals of the City.

   c. Find that the covenant was not a term or a condition of a coastal development permit that has been exercised.

2. **Recordation.** A notice of the release of the Covenant of Easement shall be recorded by the Director in the County Recorder's Office.

3. **Fees.** The applicant for a release of a Covenant of Easement shall pay the fee for the processing of the release established by the City's Fee Schedule.

CHAPTER 18.78 - SPECIFIC PLANS

Sections:

18.78.010 - Purpose of Chapter
18.78.020 - Applicability
18.78.030 - Minimum Project Area
18.78.040 - Initiation
18.78.050 - Preparation and Content
18.78.060 - Processing and Review
18.78.070 - Adoption of Specific Plan
18.78.080 - Implementation and Amendments

18.78.010 - Purpose of Chapter

This Chapter provides procedures for the preparation, processing, review, adoption, and amendment of specific plans.

18.78.020 - Applicability

A. **When required.** When required by the Council, the General Plan, or this Development Code to systematically implement the **Local Coastal Program** ~~General Plan for any part of the City~~, a specific plan shall be prepared, processed, approved, and implemented in compliance with this Chapter.

B. **Review authority.** An application for a specific plan shall be considered by the Commission, and approved or disapproved by the Council.

C. **Effect of specific plan.** The regulations provided by an adopted specific plan shall replace those of the applicable zoning district, and the development standards and design guidelines identified in the specific plan shall take precedence over the general standards contained in this Development Code and any City adopted design guidelines.

D A specific plan shall require certification by the Coastal Commission of an amendment to the City's Local Coastal Program prior to the effectiveness of the specific plan.

18.78.030 - Minimum Site Area

The minimum site area for a specific plan shall be five acres. The site may be one lot under single ownership or a combination of adjoining parcels subject to a unified planning concept.

18.78.040 - Initiation

A specific plan may be initiated by a resolution by the Council, or by the filing of an application with the Department by the owner or authorized agent of property for which the specific plan is sought. If the property is under more than one ownership, all of the owners or their authorized agents shall join in filing the application.

18.78.050 - Preparation and Content

The draft specific plan shall include detailed information in the form of text and diagram(s), organized in compliance with State law (Government Code Section 65451).

A. **Required information.** At a minimum, the following information shall be provided:

1. **Proposed land uses.** The distribution, location, and extent of land uses proposed within the area covered by the specific plan, including open space areas;

2. **Infrastructure.** The proposed distribution, extent, intensity, and location of major components of public and private circulation/transportation, drainage, energy, potable water, sewers, solid waste disposal, utilities, coastal access to surrounding developed and undeveloped areas ~~if located within the Coastal Zone~~, and other essential facilities proposed to be located within the specific plan area and needed to support the proposed land uses;

3. **Land use and development standards.** Standards, criteria, and design guidelines by which development would proceed, and standards for the conservation, development, and utilization of natural resources, where applicable;

4. **Implementation measures.** A program of implementation measures, including financing, methods, programs, regulations, and public works projects, necessary to carry out and provide:

   a. Development and conservation standards and criteria, infrastructure, and land uses;

   b. Public services, facilities and utilities, based on a nexus between development exactions being imposed and the development-induced needs being met by those exactions;

   c. Orderly phasing of the development; and

   d. Other measures needed to protect the health, safety, and well-being of the community.

5. **Relationship to General Plan.** A discussion of the relationship of the specific plan to the goals, policies, and objectives of the General Plan; ~~and~~

6. **Conformance to the Local Coastal Program. A discussion of the conformance of the specific plan to the policies of the certified Local Coastal Program, including but not limited to policies regarding the protection of environmentally sensitive habitat areas, public access, geologic hazards, and visual resources; and**

~~6~~7. **Additional information.** The specific plan shall contain additional information deemed to be necessary by the Director based on the characteristics of the area to be covered by the plan, applicable goals, policies, and objectives of the General Plan **and Local Coastal Program**, or any other issue(s) determined by the Director to be relevant.

B. **Costs to be borne by the applicant.** The specific plan, and all environmental studies required as a result of the specific plan, shall be paid for by the applicant who may be repaid by future developers of other portions of the specific plan area on a pro rata basis.

18.78.060 - Processing and Review

A draft specific plan shall be processed in the same manner as required for general plans by State law, and as follows:

A. **Public meetings required for City-initiated specific plans.**

1. Before preparation of the draft specific plan, the City shall hold at least one public/neighborhood meeting to identify potential community impacts and concerns relating to the proposed plan concept.

2. Before consideration of the draft specific plan by the Commission and Council, the City shall hold at least one public/neighborhood meeting to review the plan with the local community.

3. Public notice of the public/neighborhood meetings is required in compliance with Chapter 18.96 (Public Hearings).

B. **Application filing.** The following shall apply if the specific plan is initiated by the filing of a specific plan application:

1. An application for a specific plan shall be filed and processed in compliance with Chapter 18.70 (Application Filing and Processing).

2. The application shall be accompanied by the information identified in the Department handout for specific plan applications and Section 18.78.050 (Preparation and Content), above.

C. **Environmental review.** The draft specific plan shall be subject to environmental review as identified in Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring);

D. **Staff report.** A written staff report shall be prepared for the draft specific plan which shall include detailed recommendations and proposed findings necessary for adoption of the plan; and

E. **Public hearings.** A proposed specific plan shall be subject to public hearings before both the Commission and Council before its adoption, as follows:

1. **Commission.**

a. The Director shall schedule a public hearing on the proposed specific plan.

b. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

c. After the public hearing, the Commission shall forward a written recommendation, and reasons for the recommendation, to the Council whether to approve, approve in modified form, or disapprove the proposed specific plan, based on the findings identified in Section 18.78.070 (Adoption of Specific Plan), below.

2. **Council.**

a. After receipt of the Commission's recommendation, the City Clerk shall schedule a public hearing on the proposed specific plan.

b. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

c. After the public hearing, the Council may adopt the specific plan, disapprove the plan, or adopt the plan with modifications, with appropriate findings in compliance with Section 18.78.070 (Adoption of Specific Plan), below; provided, any substantial modifications to the plan that were not previously considered by the Commission shall be first referred to the Commission for its recommendation, in compliance with State law (Government Code Section 65356).

18.78.070 - Adoption of Specific Plan

A. **Council's action.** The Council may adopt a specific plan only after first finding that:

1. The proposed specific plan is consistent with the General Plan **and the certified Local Coastal Program**;

2. The design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc. as identified in the proposed specific plan), will ensure that future development will not endanger, jeopardize, or otherwise constitute a hazard to the public health, safety, or general welfare, or be injurious to the property or improvements in the vicinity and base zoning district in which the property is located;

3. The proposed specific plan will:

   a. Ensure quality development by encouraging greater creativity and aesthetically pleasing designs for the individual components of the development and the development as a whole;

   b. Ensure the timely provision of essential public services and facilities consistent with the demand for the services and facilities; and

   c. Promote a harmonious variety of housing choices and commercial and industrial activities, if applicable; attain a desirable balance of residential and employment opportunities; and result in a high level of amenities and the preservation of the natural and scenic qualities of open space.

4. The subject site is:

   a Physically suitable for the proposed land use designations;

   b. Physically suitable for the type and density/intensity of development being proposed;

   c. Adequate in shape and size to accommodate the proposed development; and

   d. Served by streets adequate in width and pavement type to carry the quantity and type of traffic expected to be generated by the proposed development.

B. **Adoption.** The specific plan shall be adopted by ordinance, or by resolution of the Council, in compliance with State law (Government Code Section 65453). A specific plan in the Coastal Zone ~~may also~~ **shall** require the approval of an amendment to the City's Local Coastal Program by the Council and ~~the~~ **certification by the** Coastal Commission **prior to the effectiveness of the specific plan**.

18.78.080 - Implementation and Amendments

A. **Development within specific plan area.** After the adoption of a specific plan, all proposed development and new land uses within the area covered by the specific plan shall be consistent with the specific plan. No City approval (for example, a public works project, Tentative Map, Parcel Map for which a Tentative Map was not required, Coastal Development Permit, a Conditional Use Permit, Design Review Permit, etc.**) or** ~~, and~~ an amendment to this Development Code may be approved/adopted within an area covered by a specific plan **unless** ~~only if~~ it is first found consistent with the specific plan.

B. **Specific plan fee.** The Council may impose a specific plan fee on development permits within the specific plan area, in compliance with State law (Government Code Section 65456).

C. **Amendments.**

1. An adopted specific plan may be amended through the same procedure specified by this Chapter for the adoption of a specific plan.

2. The specific plan may be amended as often as deemed necessary by the Council, in compliance with State law (Government Code Section 65453).

3. **Any amendments to an approved specific plan shall be submitted to the Coastal Commission for certification as an LCP amendment before they are effective.**

Article 8
Subdivision Regulations and Procedures

ARTICLE 8

Subdivision Regulations and Procedures

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CHAPTER 18.80 - APPLICABILITY AND ADMINISTRATION OF SUBDIVISION REGULATIONS

Sections:

18.80.010 - Purpose of Article
18.80.020 - Authority
18.80.030 - Applicability
18.80.040 - Responsibility for Administration
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18.80.060 - Authority for Subdivision Decisions
18.80.070 - Type of Subdivision Approval Required
18.80.080 - Applications Deemed Approved
18.80.090 - Exceptions to Subdivision Standards
18.80.100 - Appeals
18.80.110 - Enforcement of Subdivision Regulations

18.80.010 - Purpose of Article

This Article is the City of Fort Bragg Subdivision Ordinance. These provisions are intended to supplement, **and** implement~~, and work with~~ the Subdivision Map Act, Sections 66410 et seq. of the California Government Code (hereafter referred to as the "Map Act"). This Article is not intended to replace the Map Act, and must be used in conjunction with the Map Act in the preparation of subdivision applications, and the review, approval, and improvement of proposed subdivisions. **This Article shall not govern the review and approval of coastal development permits.**

18.80.020 - Authority

This Article is adopted in compliance with the Map Act as a "local ordinance," as the term is used in the Map Act. All provisions of the Map Act and future amendments to the Map Act not incorporated into this Article shall, nevertheless, apply to all subdivision maps and proceedings under this Article.

18.80.030 - Applicability

A. **Subdivision approval required.** Each subdivision of land within the City shall be authorized through the approval of a map**, a coastal development permit, and any** ~~or~~ other entitlement in compliance with this Chapter.

B. **Conflicts with Map Act.** In the event of any conflicts between the provisions of this Chapter and the Map Act, the Map Act shall control.

C. **Compliance with other regulations required.** The approval or conditional approval of a subdivision map shall not authorize an exception or deviation from any zoning regulation in this Development Code, or as an approval to proceed with any development in violation of other applicable provisions of the Municipal Code or other applicable ordinances or regulations of the City.

D. **Coastal development permit required. A land division shall also require a coastal development permit consistent with all applicable policies of the certified Local Coastal Program and reviewed and approved in compliance with Section 18.71.040 (Coastal Development Permit).**

18.80.040 - Responsibility for Administration

The Director and City Engineer are authorized and directed to administer and enforce the provisions of this Article and applicable provisions of the Map Act for subdivisions within the City, except as otherwise provided by this Article.

18.80.050 - Advisory Agency

A. **Advisory agency established.** The advisory agency for subdivision review shall be the Planning Commission.

B. **Authority and duties.** The advisory agency shall perform the following duties, and as further detailed in Section 18.80.060 (Authority for Subdivision Decisions).

1. Approve, conditionally approve, or disapprove Tentative Maps;

2. Recommend to the Council the approval, conditional approval, or disapproval of requests for modification of the City's design and improvement standards;

3. Recommend modifications of the requirements of this Article;

4. Review and make recommendations concerning proposed subdivisions in adjacent cities, and in the unincorporated areas of Mendocino County in compliance with the provisions of the Map Act when the advisory agency has elected to do so;

5. Perform additional duties and exercise additional authorities as prescribed by law and by this Article.

18.80.060 - Authority for Subdivision Decisions

Table 7-1 (Subdivision Review Authority) identifies the City official or authority responsible for reviewing and making decisions on each type of subdivision application and other decision required by this Article.

TABLE 7-1 - SUBDIVISION REVIEW AUTHORITY

Type of Subdivision Application or Decision	Procedure is in Section:	Role of Review Authority (1)			
		Director	City Engineer	Planning Commission	City Council
Certificates of Compliance	18.84.020		Decision		Appeal
Amendment to Recorded Map	18.82.120		Decision		Appeal
Final Maps	18.82.070		Recommend		Decision
Improvement Agreements	18.88.080		Recommend		Decision
Improvement Plans	18.88.060		Recommend		Decision
Improvement Security	18.88.080		Recommend		Decision
Lot Line Adjustment	18.84.040	Decision			Appeal
Merger and Unmerger	18.84.050	Recommend			Decision
Parcel Map	18.82		Recommend		Decision

Type of Subdivision Application or Decision	Procedure is in Section:	Role of Review Authority (1)			
		Director	City Engineer	Planning Commission	City Council
Reversion to Acreage	18.84.060	Recommend	Recommend		Decision
Tentative Map	18.81	Recommend	Recommend	Decision	Appeal
Waiver of Parcel Map	18.82.030	Recommend	Recommend	Recommend	Decision
Coastal Development Permit	**18.71.040**	**Recommend**	**Recommend**	**Decision**	**Appeal**

Notes:

(1) "Form" means that the review authority approves the document as to form. "Recommend" means that the review authority makes a recommendation to a higher decision-making body. "Decision" means that the review authority makes the final decision on the matter. "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 18.66 (Appeals).

18.80.070 - Type of Subdivision Approval Required

Any subdivision of an existing parcel into two or more parcels shall require approval by the City in compliance with this Article. In general, the procedure for subdivision first requires the approval of a Tentative Map, **a coastal development permit,** and then the approval of a Parcel Map (for four or fewer parcels) or a Final Map (for five or more parcels) to complete the subdivision process. The Tentative Map review process is used to evaluate the compliance of the proposed subdivision with the adopted City standards, and the appropriateness of the proposed subdivision design. Parcel and Final Maps are precise engineering documents that detail the location and dimensions of all parcel boundaries in an approved subdivision and, after approval, are recorded in the office of the County Recorder.

A. **Tentative Map requirements.** Map Act Section 66426 requires that any subdivision or resubdivision of land shall require the filing and approval of a Tentative Map.

B. **Parcel and Final Map requirements.** A Parcel or Final Map shall be required as follows:

1. **Parcel Map.** The filing and approval of a Parcel Map (Chapter 18.82) shall be required for a subdivision creating four or fewer parcels, with or without a designated remainder in compliance with Map Act Article 2, Chapter 1, except for the following subdivisions:

   a. **Public agency or utility conveyances.** Any conveyance of land, including a fee interest, an easement, or a license, to a governmental agency, public entity, public utility or a subsidiary of a public utility for rights-of-way, unless the Director determines based on substantial evidence that public policy necessitates a Parcel Map in an individual case;

   b. **Rail right-of-way leases.** Subdivisions of a portion of the operating right-of-way of a railroad corporation as defined by California Public Utilities Code Section 230, which are created by short-term leases (terminable by either party on not more than 30 days' notice in writing); or

   c. **Waived Parcel Map.** A subdivision that has been granted a waiver of Parcel Map requirements in compliance with Section 18.82.030 (Waiver of Parcel Map).

2. **Final Map.** The filing and approval of a Final Map (Chapter 18.82) shall be required for a subdivision of five or more parcels.

C. **Exemptions from subdivision approval requirements.** The types of subdivisions identified by Map Act Sections 66411, 66412, 66412.1, 66412.2, 66412.5, and 66426.5, or other applicable Map Act provision as not being subject to the requirements of the Map Act, and/or not being considered to be divisions of land for the purposes of the Map

Act, shall be exempt from the subdivision approval requirements of this Article**, except for requirements to obtain a coastal development permit.**

D. **Exceptions from map preparation requirements.** The types of subdivisions identified by Map Act Sections 66426 and 66428, or other applicable Map Act provision as not requiring the preparation of a Tentative Map, Parcel Map, and/or a Final Map shall comply with Map Act Sections 66426 and 66428. **A coastal development permit shall be required for land divisions not requiring the preparation of a Tentative Map, Parcel Map, and/or Final Map.**

E. **Coastal Development Permit requirements.** A proposed subdivision located within the Coastal Zone shall require the approval of a Coastal Development Permit at the same time as the approval of a Tentative Map, or a Parcel Map for which no Tentative Map is required. See Section 18.71.040 for Coastal Development Permit requirements and procedures.

18.80.080 - Applications Deemed Approved

Any subdivision application deemed approved in compliance with Government Code Section 65956 or Map Act Article 2, Chapter 3 (Government Code Sections 66452 et seq.), shall be subject to all applicable provisions of **the Local Coastal Program,** this Development Code, and any conditions imposed by the review authority, which shall be satisfied by the subdivider before any zoning approval or Building Permit is issued. Parcel or Final Maps filed for record after their Tentative Map is deemed approved shall remain subject to all the mandatory requirements of this Article and the Map Act, including Map Act Sections 66473, 66473.5 and 66474.

18.80.090 - Exceptions to Subdivision Standards

An exception to a provision of Chapter 18.88 (Subdivision Design and Improvement Requirements) may be requested by a subdivider in compliance with this Section. An exception shall not be used to waive or modify provisions of the Map Act, or any provision of this Article that is duplicated or paraphrased from the Map Act. **An exemption to Chapter 18.88 does not replace, supercede, or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.**

A. **Application.** An application for an exception shall be submitted on forms provided by the Department together with the required filing fee. The application shall include a description of each standard and requirement for which an exception is requested, together with the reasons why the subdivider believes the exception is justified.

B. **Filing and processing.** A request for an exception may be filed with the Tentative Map application to which it applies, or after approval of the Tentative Map. An exception shall be processed and acted upon in the same manner as the Tentative Map, concurrently with the Tentative Map if the exception request was filed at the same time. The approval of an exception shall not constitute approval of the Tentative Map and the approval or denial of an exception shall not extend the time limits for the expiration of the map established by Section 18.81.140 (Extensions of Time for Tentative Maps).

C. **Approval of exception.** The Commission shall have the authority to approve or deny exception requests in compliance with this Section. The Commission shall not grant an exception unless all the following findings are first made:

1. There are exceptional or extraordinary circumstances or conditions applicable to the proposed subdivision, including size, shape, topography, location, or surroundings;

2. The exceptional or extraordinary circumstances or conditions are not due to any action of the subdivider subsequent to the enactment of this Article;

3. The exception is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity and zoning district and which would otherwise be denied to the proposed subdivision;

4. Granting the exception will not be materially detrimental to the public welfare nor injurious to the property or improvements in the vicinity and zoning district in which the property is located; and

5. The exception will not affect the consistency of the proposed subdivision with the **Local Coastal Program,** General Plan or any applicable specific plan. **An exception to Chapter 18.88 does not replace, supercede, or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.**

D. **Conditions of approval.** In granting an exception, the Commission shall secure substantially the same objectives of the regulations for which the exception is requested and shall impose whatever conditions it deems necessary to protect the public health, safety, general welfare and convenience, and to mitigate any environmental impacts in compliance with CEQA.

18.80.100 – Appeals

Any interested person may appeal any decision of the Director to the Commission, and may appeal any decision of the Commission to the Council, in compliance with Chapter 18.80.100 (Appeals).

18.80.110 - Enforcement of Subdivision Regulations

A. **Violations.** Any person who violates any provision of this Article shall be subject to the penalties specified by Map Act Division 2, Chapter 7, Article 1 and/or, where applicable, shall be guilty of a misdemeanor or infraction as specified in Section 18.80.110 (Enforcement of Subdivision Regulations).

B. **Remedies.** If construction activity on property subject to a Final Map is occurring contrary to the Map Act or a requirement of the map, the City Engineer may order the activity stopped by written notice served on any person responsible for the activity, in addition to the remedies outlined in Map Act Division 2, Chapter 7, Article 2. The responsible person shall immediately stop the activity until authorized by the City Engineer to proceed. For the purposes of this Section, construction activities include, but are not limited to, grading, earth moving, and/or tree removal.

CHAPTER 18.81 - TENTATIVE MAP FILING AND PROCESSING

Sections:

18.81.010 - Purpose of Chapter
18.81.020 - Tentative Map Preparation, Application Contents
18.81.030 - Tentative Map Filing, Initial Processing
18.81.040 - Evaluation of Application
18.81.050 - Planning Commission Review and Recommendation
18.81.060 - Council Review and Decision
18.81.070 - Tentative Map Approval or Disapproval
18.81.080 - Conditions of Approval
18.81.090 - Effective Date of Tentative Map Approval
18.81.100 - Changes to Approved Tentative Map or Conditions
18.81.110 - Completion of Subdivision Process
18.81.120 - Vesting Tentative Maps
18.81.130 - Tentative Map Time Limits and Expiration
18.81.140 - Extensions of Time for Tentative Maps

18.81.010 - Purpose of Chapter

This Chapter establishes requirements for the preparation, filing, approval or disapproval of Tentative Maps, consistent with the requirements of the Map Act. **This Chapter shall not govern the review and approval of coastal development permits.**

18.81.020 - Tentative Map Preparation, Application Contents

Tentative Map submittal shall include the application forms, and all information and other materials prepared as required by the Department and the City Engineer. ~~If the property proposed for subdivision is within the Coastal Zone, the~~ **The** material submitted shall also include an application for Coastal Development Permit approval, in compliance with Section 18.71.040 (Coastal Permits).

18.81.030 - Tentative Map Filing, Initial Processing

A. **General filing and processing requirements.** A Tentative Map application shall be submitted to the Department for processing, and shall be:

1. Reviewed for completeness and accuracy;

2. Referred to affected agencies;

3. Reviewed in compliance with the California Environmental Quality Act (CEQA) where applicable; ~~and~~

4 Reviewed in compliance with the certified Local Coastal Program; and

4**5**. Evaluated in a staff report in compliance with Chapter 18.70 (Permit Application Filing and Processing).

B. **Referral to affected agencies.** The procedure provided by this Subsection is in addition to the procedures in Chapter 18.70 (Permit Application Filing and Processing).

1. **Required referrals.** The Director shall refer a Tentative Map application for review and comment to agencies that will be expected to provide service to the proposed subdivision, including, as appropriate, City departments, County agencies, other cities and local agencies, public utilities, and state agencies.

2. **Time limits for referrals.** As required by Map Act Sections 66453 through 66455.7, referral shall occur within five days of the Tentative Map application being determined to be complete in compliance with Section 18.70.070 (Initial Application Review). An agency wishing to respond to a referral shall provide the Department with its recommendations within 15 days after receiving the Tentative Map application.

18.81.040 - Evaluation of Application

After completion of the initial processing and the application being deemed complete in compliance with Section 18.70.070, the Director shall:

A. Review and evaluate each Tentative Map as to its compliance and consistency with applicable provisions of this Development Code, the General Plan, the Local Coastal Program, any applicable specific plan, and the Map Act;

B. Determine the extent to which the proposed subdivision complies with the findings in Section 18.81.070 (Tentative Map Approval or Disapproval); and

C. Prepare a staff report to the review authority in compliance with Section 18.81.050 (Planning Commission Review and Decision), describing the conclusions of the evaluations of the map, and recommending to the review authority the approval, conditional approval, or denial of the Tentative Map. The staff report shall be mailed to the subdivider (and each tenant of the subject property, in the case of a condominium conversion (Section 18.84.030) at least three days before any hearing or action on the Tentative Map by the review authority in compliance with Section 18.81.050.

18.81.050 - Planning Commission Review and Decision

After completion of the evaluation and report required by Section 18.81.040, the Commission shall:

A. Conduct a public hearing on the proposed Tentative Map in compliance with Chapter 18.96 (Public Hearings), and consider the recommendations of the Director, any agency comments on the map, and any public testimony; and

B. Review and evaluate each Tentative Map as to its compliance and consistency with applicable provisions of this Development Code, the General Plan, the Local Coastal Program, any applicable specific plan, and the Map Act. The evaluation shall be based on the staff report, information provided by an initial study or environmental impact report (EIR), where applicable, and any public testimony received; and

C. Within 30 days after the filing of the report and recommendation of the Director with the Commission, but no later than 50 days after the Tentative Map application was deemed complete in compliance with Section 18.70.070 (Initial Application Review) approve, conditionally approve, or disapprove the Tentative Map.

Tentative Map approval shall require that the Commission first make all findings required by Section 18.81.070 (Tentative Map Approval or Disapproval). The Commission may require conditions of approval in compliance with Section 18.81.080 (Conditions of Approval). A decision by the commission to approve, conditionally approve, or deny a Tentative Map may be appealed to the Council, in compliance with Chapter 18.92 (Appeals).

18.81.070 - Tentative Map Approval or Disapproval

In order to approve or recommend the approval of a Tentative Map and conditions of approval, or to disapprove a Tentative Map, the review authority shall first make the findings required by this Section. In determining whether to approve a Tentative Map, the City shall apply only those ordinances, policies, and standards in effect at the date the Department determined that the application was complete in compliance with Section 18.81.030 (Tentative Map Filing, Initial Processing), except where the City has initiated General Plan, specific plan or Development Code changes, and provided public notice as required by Map Act Section 66474.2.

A. **Required findings for approval.** The review authority may approve a Tentative Map only when it shall first find that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the **Local Coastal Program,** General Plan, and any applicable Specific Plan, and that none of the findings for denial in Subsection C. can be made. The findings shall apply to each proposed parcel as well as the entire subdivision, including any parcel identified as a designated remainder in compliance with Map Act Section 66424.6.

B. **Supplemental findings.** In addition to the findings required for approval of a Tentative Map by Subsection A. above, the review authority shall not approve a Tentative Map unless it can also make the following findings, when they are applicable to the specific subdivision proposal.

1. **Construction of improvements.** In the case of a Tentative Map for a subdivision that will require a subsequent Parcel Map, it is in the interest of the public health and safety, and it is necessary as a prerequisite to the orderly development of the surrounding area, to require the construction of road improvements within a specified time after recordation of the Parcel Map.

2. **Condominiums.** Any applicable findings required by Section 18.84.030 for condominium conversions.

3. **Waiver of Parcel Map.** The findings required by Section 18.82.030 (Waiver of Parcel Map), if waiver of a Parcel Map has been requested with the Tentative Map application.

C. **Findings requiring denial.** A Tentative Map shall be denied if the review authority makes any of the following findings:

1. The proposed subdivision including design and improvements is not consistent with the **Local Coastal Program,** General Plan or any applicable Specific Plan;

2. The site is not physically suitable for the type or proposed density of development;

3. The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or injure fish or wildlife or their habitat;

4. The design of the subdivision or type of improvements is likely to cause serious public health or safety problems;

5. The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large for access through or use of, property within the proposed subdivision. This finding may not be made if the review authority finds that alternate easements for access or use will be provided, and that they will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record, or to easements established by judgement of a court of competent jurisdiction, and no authority is hereby granted to the review authority to determine that the public at large has acquired easements of access through or use of property within the proposed subdivision;

6. The discharge of sewage from the proposed subdivision into the community sewer system would result in violation of existing requirements prescribed by the California Regional Water Quality Control Board;

7. A preliminary soils report or geological hazard report indicates adverse soil or geological conditions and the subdivider has failed to provide sufficient information to the satisfaction of the City Engineer or other applicable review authority that the conditions can be corrected in the plan for the development; or

8. The proposed subdivision is not consistent with all applicable provisions of **the Local Coastal Program,** this Development Code, any other applicable provisions of the Municipal Code, and the Subdivision Map Act.

18.81.080 - Conditions of Approval

Along with the approval of a Tentative Map, the review authority may adopt any conditions of approval deemed necessary to carry out the purposes of this Development Code, provided that all conditions shall be consistent with the requirements of the Map Act.

18.81.090 - Effective Date of Tentative Map Approval

The approval of a Tentative Map shall become effective for the purposes of filing a Parcel or Final Map, including compliance with conditions of approval, on the 11th day after a decision by the Commission if no appeal is filed in compliance with Chapter 18.92 (Appeals) ~~for sites which are outside of the Coastal Zone; and after the Coastal Commission 10- working-day appeal period has elapsed and no appeal has been filed for sites within the Coastal Zone.~~

18.81.100 - Changes to Approved Tentative Map or Conditions

A subdivider may request changes to an approved Tentative Map or its conditions of approval before recordation of a Parcel or Final Map in compliance with this Section. Changes to a Parcel or Final Map after recordation are subject to Section 18.82.120 (Amendments to Recorded Maps).

A. **Limitation on allowed changes**. Changes to a Tentative Map that may be requested by a subdivider in compliance with this Section include major adjustments to the location of proposed lot lines and improvements, and reductions in the number of approved lots (but no increase in the number of approved lots), and any changes to the conditions of approval, consistent with the findings required by Subsection D. of this Section. Other changes shall require the filing and processing of a new Tentative Map.

B. **Application for changes**. The subdivider shall file an application and filing fee with the Department, using the forms furnished by the Department, together with the following additional information:

1. A statement identifying the Tentative Map number, the features of the map or particular conditions to be changed and the changes requested, the reasons why the changes are requested, and any facts that justify the changes; and

2. Any additional information deemed appropriate by the Department.

C. **Processing.** Proposed changes to a Tentative Map or conditions of approval shall be processed in the same manner as the original Tentative Map, except as otherwise provided by this Section. ~~If a Coastal Development Permit was required for the original Tentative Parcel Map approval, a~~ **A coastal development** permit amendment may **also** be required **for any proposed changes to the land division**.

D. **Findings for approval.** The review authority shall not modify the approved Tentative Map or conditions of approval unless it shall first find that the change is necessary because of one or more of the following circumstances, and that all of the applicable findings for approval required by Sections 18.81.070.A and B. can still be made:

1. There was a material mistake of fact in the deliberations leading to the original approval;

2. There has been a change of circumstances related to the original approval; or

3. A serious and unforeseen hardship has occurred, not due to any action of the applicant subsequent to the enactment of this Development Code.

E. **Effect of changes on time limits.** Approved changes to a Tentative Map or conditions of approval shall not be considered as approval of a new Tentative Map, and shall not extend the time limits provided by Section 18.81.140 (Extensions of Time for Tentative Maps).

18.81.110 - Completion of Subdivision Process

A. **Compliance with conditions, improvement plans**. After approval of a Tentative Map **and a coastal development permit** pursuant to this Chapter, the subdivider shall proceed to fulfill the conditions of approval within any time limits specified by the conditions and the expiration of the map and, where applicable, shall prepare, file and receive approval of improvement plans in compliance with Chapter 18.88 (Subdivision Design and Improvement Requirements), before constructing any required improvements.

B. **Parcel or Final Map preparation, filing and recordation.**

1. A Parcel Map for a subdivision of four or fewer parcels shall be prepared, filed, processed and recorded in compliance with Chapter 18.82 (Parcel Maps and Final Maps), to complete the subdivision, unless a Parcel Map has been waived in compliance with Section 18.82.030 (Waiver of Parcel Map).

2. A Final Map for a subdivision of five or more parcels shall be prepared, filed, processed and recorded as set forth in Chapter 18.82 (Parcel Maps and Final Maps), to complete the subdivision.

18.81.120 - Vesting Tentative Maps

The preparation, filing, processing, approval or disapproval, of a Vesting Tentative Map shall comply with Map Act Sections 66452 and 66498.1 et seq. **Approval of a Vesting Tentative Map does not obviate the need for a coastal development permit. A coastal development permit may be required for a Vesting Tentative Map.**

18.81.130 - Tentative Map Time Limits and Expiration

An approved Tentative Map is valid for 24 months after its effective date (Section 18.81.090), except as otherwise provided by Map Act Sections 66452.6, 66452.11, 66452.13, or 66463.5. At the end of 24 months, the approval shall expire and become void unless:

A. A Parcel or Final Map, and related bonds and improvement agreements, have been filed with the City Engineer in compliance with Chapter 18.82 (Parcel Maps and Final Maps); or

B. An extension of time has been granted in compliance with Section 18.81.140.

Expiration of an approved Tentative Map or vesting Tentative Map shall terminate all proceedings. The application shall not be reactivated unless a new Tentative Map application is filed.

18.81.140 - Extensions of Time for Tentative Maps

When a subdivider has not completed all Tentative Map or Vesting Tentative Map conditions of approval and filed a Parcel or Final Map with the City within the time limits established by Section 18.81.130, time extensions may be granted in compliance with this Section.

A. **Filing of extension request.** An extension request shall be in writing and shall be filed with the Department on or before the date of expiration of the approval or previous extension, together with the required filing fee.

B. **Approval of extension.** The Council may grant one 12-month extension to the initial time limit, only after finding that:

1. There have been no changes to the provisions of the **Local Coastal Program,** General Plan, any applicable Specific Plan or this Development Code applicable to the project since the approval of the Tentative Map;

2. There have been no changes in the character of the site or its surroundings that affect how the policies of the **Local Coastal Program,** General Plan or other standards of this Development Code apply to the project; and

3. There have been no changes to the capacities of community resources, including but not limited to water supply, sewage treatment or disposal facilities, roads or schools so that there is no longer sufficient remaining capacity to serve the project.

A time extension of more than 12 months may be granted only in compliance with Map Act Section 66452.6.

CHAPTER 18.82 - PARCEL MAPS AND FINAL MAPS

Sections:

18.82.010 - Purpose of Chapter
18.82.020 - Parcel Maps
18.82.030 - Waiver of Parcel Map
18.82.040 - Parcel Map Form and Content
18.82.050 - Filing and Processing of Parcel Maps
18.82.060 - Parcel Map Approval
18.82.070 - Final Maps
18.82.080 - Final Map Form and Content
18.82.090 - Filing and Processing of Final Maps
18.82.100 - Final Map Approval
18.82.110 - Supplemental Information Sheets
18.82.120 - Amendments to Recorded Maps

18.82.010 - Purpose of Chapter

This Chapter establishes requirements for the preparation, filing, approval and recordation of Parcel and Final Maps, consistent with the requirements of the Map Act. **This Chapter shall not govern the review and approval of coastal development permits.**

18.82.020 - Parcel Maps

As required by Sections 18.80.070 (Type of Subdivision Approval Required), and 18.81.110 (Completion of Subdivision Process), a Parcel Map shall be filed and approved to complete the subdivision process for a subdivision of four or fewer parcels, except when the requirement for a Parcel Map is waived as set forth in Section 18.82.030. A Parcel Map shall be prepared, filed and processed as set forth in Section 18.82.040, et seq.

18.82.030 - Waiver of Parcel Map

A subdivider may request the waiver of the requirement for a Parcel Map, and the waiver may be granted, in compliance with the Map Act Section 66428, and the following requirements.

A. **Review authority.** The Council may grant a waiver of Parcel Map based on the recommendation of the Commission, in compliance with this Section.

B. **Application requirements.** A subdivider shall file a request for a waiver of Parcel Map on the forms provided by the Department, which shall include all information and materials required by the City Engineer.

C. **Required findings for approval.** The review authority may approve a request for the waiver of a Parcel Map only if it first finds that the proposed subdivision complies with the requirements of **the Local Coastal Program,** this Development Code and the Map Act as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and all other applicable requirements of this Article and the Map Act.

D. **Unilateral agreement.** Within 24 months of the approval of a Tentative Map by the Commission for a subdivision where the Council has granted a waiver of Parcel Map, or within the additional time period established by a Tentative Map time extension in compliance with Section 18.81.140 (Extensions of Time for Tentative Maps) the subdivider shall submit to the City Engineer a unilateral agreement. The agreement shall be filed and processed in compliance with the following requirements.

1. **Agreement contents.** The agreement shall be filed with the following:

   a. An adequate legal description of the parcels being created, certified by either a licensed land surveyor or registered civil engineer, unless the City Engineer waives this requirement in writing;

   b. An affidavit or declaration under penalty of perjury executed by the subdivider that since filing of the Tentative Map and preliminary title report with the City there has occurred no change in the ownership of the subject property and that the information contained in the title report is accurate and remains correct;

   c. An affidavit or declaration under penalty of perjury signed by the subdivider certifying that all of the conditions of approval of the Tentative Map have been met and, in the case of improvements allowed to be deferred until time of development pursuant to Government Code Section 66411.1, a statement itemizing the required improvements and binding the subdivider to fulfill such construction requirements at time of development or such earlier time as may be set by the Council for reasons of public health and safety or orderly development of the surrounding area; and

   d. An improvement bond, if required in compliance with 18.88.080 (Improvement Agreements and Security).

2. **Review for completeness, endorsement.** Within 10 days of the filing of the agreement, the City Engineer shall examine the materials submitted for adequacy and compliance. If the City Engineer is satisfied that the documentation submitted is correct, accurate and complete, he or she shall endorse the unilateral agreement approved. If the documentation is deficient, the City Engineer shall notify the subdivider in writing of the deficiencies. The subdivider shall then correct the deficiencies no later than 24 months from the date of approval of the Tentative Map or prior to the expiration of an extension of time. If the deficiencies are not corrected within the time specified, the subdivision shall be deemed denied.

3. **Effective date of subdivision.** When the unilateral agreement, endorsed by the City Engineer, is filed for record and written notice of recordation given to the City Engineer, the subdivision shall be deemed to be effective and the parcels created by the subdivision may be conveyed or otherwise transferred.

4. **Submittal of agreement to affected parties.** Prior to the conveyance of any parcel of land within subdivision for which the Parcel Map is waived, a copy of the recorded unilateral agreement shall be submitted to the buyer, lessee, or financial lender, as the case may be, for each parcel created and to the escrow company or title company processing the transfer.

18.82.040 - Parcel Map Form and Content

A Parcel Map shall be prepared by or under the direction of a qualified, registered civil engineer or licensed land surveyor, registered or licensed by the State of California. Parcel Map submittal shall include the application forms, and all information and other materials prepared as required by the Department.

18.82.050 - Filing and Processing of Parcel Maps

A. **Filing with the City Engineer.** The Parcel Map, together with all data, information and materials required by Section 18.81.020 shall be submitted to the City Engineer. The Parcel Map shall be considered submitted when it is complete and complies with all applicable provisions of this Development Code and the Map Act.

B. **Review of Parcel Map.** The City Engineer shall:

1. Determine whether all applicable provisions of this Development Code and the Map Act have been complied with, that the map is technically correct, and that it is in substantial compliance with the approved Tentative Map; and

2. Obtain verification from the Department that the Parcel Map conforms to the approved Tentative Map and that any conditions of approval for which that office is responsible have been completed.

If the Parcel Map does not conform as required above, the subdivider shall be notified, and given the opportunity to make necessary changes and resubmit the Parcel Map, together with all required data, if the Tentative Map has not expired.

18.82.060 - Parcel Map Approval

After determining that the Parcel Map is in compliance and is technically correct in compliance with Section 18.82.040, the Director shall forward the Parcel Map to the Council for approval. After Council approval of a Parcel Map, the map shall be transmitted by the City Engineer to the County Recorder for filing in compliance with Map Act Section 66450.

18.82.070 - Final Maps

As required by Section 18.80.070 (Type of Subdivision Approval Required), a Final Map shall be filed and approved to complete the subdivision process for a subdivision of five or more parcels. A Final Map shall be prepared, filed and processed as set forth in Section 18.82.080 et seq.

18.82.080 - Final Map Form and Content

A Final Map shall be prepared by or under the direction of a qualified registered civil engineer or licensed land surveyor, registered or licensed by the State of California. Final Map submittal shall include all information and other materials prepared as required by the Department. A Final Map submittal shall also include a digital copy of the Final Map, prepared using computer software and standards specified by the City Engineer.

18.82.090 - Filing and Processing of Final Maps

A. **Filing with City Engineer.** The Final Map, together with all data, information and materials required by Section 18.82.080 shall be submitted to the City Engineer. The Final Map shall be considered submitted when it is complete and complies with all applicable provisions of this Development Code and the Map Act.

B. **Review of Final Map.** The City Engineer shall review the Final Map and all accompanying materials, and shall:

1. Determine whether all applicable provisions of this Development Code and the Map Act have been complied with, that the map is technically correct, and that it is in substantial compliance with the approved Tentative Map; and

2. Obtain verification from the Department that the Final Map conforms to the approved Tentative Map and that any conditions of approval for which that office is responsible have been completed.

If the Final Map does not conform as required above, the subdivider shall be notified, and given the opportunity to make necessary changes and resubmit the Parcel Map, together with all required data, if the Tentative Map has not expired.

C. **Multiple Final Maps.** Multiple Final Maps may be filed if the subdivider included a statement of intention with the Tentative Map that he or she would submit multiple phased Final Maps.

18.82.100 - Final Map Approval

After determining that the Final Map is in compliance and is technically correct in compliance with Section 18.82.080, the City Engineer shall execute the City Engineer's certificate on the map in compliance with Map Act Section 66442, and forward the Final Map to the Council for action, as follows.

A. **Review and approval by Council.** The Council shall approve or disapprove the Final Map at its next regular meeting after the City Clerk receives the map, or at its next regular meeting after the meeting at which it receives the map, unless that time limit is extended with the mutual consent of the City Engineer and the subdivider.

1. **Criteria for approval.** The Council shall approve the Final Map if it conforms to all the requirements of the Map Act, all provisions of this Development Code that were applicable at the time that the Tentative Map was approved, and is in substantial compliance with the approved Tentative Map.

2. **Waiver of errors.** The Council may approve a Final Map that fails to meet any of the requirements of this Development Code or the Map Act applicable at the time of approval of the Tentative Map, when the Council finds that the failure of the map is a technical or inadvertent error which, in the determination of the Council does not materially affect the validity of the map.
3. **Approval by inaction.** If the Council does not approve or disapprove the Final Map within the prescribed time or any authorized extension, and the map conforms to all applicable requirements, it shall be deemed approved, and the City Clerk shall certify its approval on the map.

B. **Map with dedications.** If a dedication or offer of dedication is required on the Final Map, the Council shall accept, accept subject to improvement, or reject with or without prejudice any or all offers of dedication, at the same time as it takes action to approve the Final Map. If the City Council rejects the offer of dedication, the offer shall remain open and may be accepted by the City Council at a later date pursuant to Map Act Section 66477.2. Any termination of an offer of dedication shall be processed in compliance with Map Act Section 66477.2 and the street vacation procedure.

C. **Map with incomplete improvements.** If improvements required by this Development Code, conditions of approval, or other law have not been completed at the time of approval of the Final Map, the Council shall require the subdivider to enter into an agreement with the City as specified in Map Act Section 66462, and Section 18.88.080 (Improvement Agreements and Security), as a condition precedent to the approval of the Final Map.

D. **Transmittal to Recorder.** After action by the Council, and after the required signatures and seals have been affixed, the subdivider shall submit the Final Map to County Recorder for recordation, and shall provide certified copies to the City Engineer.

18.82.110 - Supplemental Information Sheets

In addition to the information required to be included in Parcel Maps and Final Maps (Sections 18.82.040 and 18.82.080, respectively), additional information may be required to be submitted and recorded simultaneously with a Final Map as required by this Section.

A. **Preparation and form.** The additional information required by this Section shall be presented in the form of additional map sheets, unless the Director determines that the type of information required would be more clearly and understandably presented in the form of a report or other document. The additional map sheet or sheets shall be prepared in the same manner and in substantially the same form as required for Parcel Maps by Section 18.82.040 (Parcel Map Form and Content).

B. **Content of information sheets.** Supplemental information sheets shall contain the following statements and information:

1. **Title.** A title sheet, including the number assigned to the accompanying Parcel or Final Map by the City Engineer, the words "Supplemental Information Sheet;"

2. **Explanatory statement.** A statement following the Title sheet that the supplemental information sheet is recorded along with the subject Parcel or Final Map, and that the additional information being recorded with the Parcel or Final Map is for informational purposes, describing conditions as of the date of filing, and is not intended to affect record title of interest;

3. **Location map.** A location map, at a scale not to exceed one inch equals 2,000 feet. The map shall indicate the location of the subdivision within the City;

4. **Soils or geologic hazards reports.** When a soils report or geological hazard report has been prepared, the existence of the report shall be noted on the information sheet, together with the date of the report and the name of the engineer making the report; and

5. **Information required by conditions of approval.** Any information required by the review authority to be included on the supplemental information sheets because of its importance to potential successors in interest to the property, including any other easements or dedications.

18.82.120 - Amendments to Recorded Maps

A recorded Parcel or Final Map shall be modified to correct errors in the recorded map or to change characteristics of the approved subdivision only as set forth in this Section.

A. **Corrections.** In the event that errors in a Parcel or Final Map are discovered after recordation, or that other corrections are necessary, the corrections may be accomplished by either the filing of a certificate of correction or an amending map, in compliance with Article 7, Chapter 3 of the Map Act. For the purposes of this Section, "errors" include errors in course or distance (but not changes in courses or distances from which an error is not ascertainable from the Parcel or Final Map), omission of any course or distance, errors in legal descriptions, or any other map error or omission as approved by the City Engineer that does not affect any property right, including but not limited to lot numbers, acreage, street names, and identification of adjacent record maps. Other corrections may include indicating monuments set by engineers or surveyors other than the one that was responsible for setting monuments, or showing the proper character or location of any monument that was incorrectly shown, or that has been changed.

B. **Changes to approved subdivision.** In the event that a subdivider wishes to change the characteristics of an approved subdivision, including but not limited to the number or configuration of parcels, location of streets or easements, or the nature of required improvements, the construction of which has been deferred through the approval of an agreement in compliance with Section 18.88.080 (Improvement Agreements and Security), a new tentative, and Parcel or Final Map shall be filed and approved as required by Section 18.80.070 (Type of Subdivision Approval Required). **Changes to an approved subdivision shall also require a coastal development permit amendment or a new coastal development permit in compliance with the certified LCP.**

CHAPTER 18.84 -ADDITIONAL SUBDIVISION PROCEDURES

Sections:

18.84.010 - Purpose of Chapter
18.84.020 - Certificates of Compliance
18.84.030 - Condominiums
18.84.040 - Lot Line Adjustment
18.84.050 - Parcel Merger
18.84.060 - Reversions to Acreage

18.84.010 - Purpose of Chapter

This Chapter establishes requirements consistent with the Map Act for Certificates of Compliance, Condominiums and Condominium Conversions, Lot Line Adjustments, Parcel Mergers, and Reversion to Acreage.

18.84.020 - Certificates of Compliance

The City shall process and approve or disapprove applications for Certificates of Compliance as provided by Map Act Sections 66499.34 and 66499.35, and as follows.

A. **Application.** An application for the approval of a Certificate of Compliance or Conditional Certificate of Compliance shall be filed with the Director and include the information required by the Director, together with the processing fee specified by the City Fee Schedule.

~~B. **Review by City Engineer.** The City Engineer shall review the completed application in the light of public records and applicable law. If the City Engineer is able to determine from this review that the parcel is clearly in compliance with the provisions of this Article and the Subdivision Map Act, shall issue a Certificate of Compliance for the parcel, to be delivered by the applicant to the County Recorder for recordation. If the City Engineer is unable to determine from this review that the parcel is clearly in compliance, the procedures identified in Map Act Section 66499.35 shall apply.~~

B. For issuance of a certificate of compliance pursuant to Government Code Sec. 66499.35 for a land division that occurred prior to the effective date of the Coastal Act, where the parcel(s) was created in compliance with state law and local ordinances in effect at the time of its creation and the parcel(s) has not subsequently been merged or otherwise altered, the City shall not require a coastal development permit. However, if the originally created parcel was subsequently merged or recombined with another parcel(s), a certificate of compliance shall not be issued for the originally created parcel, unless the City finds that creation of the parcel complies with all policies and standards of the LCP, including the requirements of Section ### of this Development Code for approval of land divisions, and the City issues a coastal development permit authorizing the land division.

C. To determine whether parcels were created in compliance with state law and local ordinances in effect at the time of its creation, and whether they were subsequently merged or otherwise altered, the applicant shall submit a complete title history, including all documentation necessary to determine how the parcels were created; what additional parcels were created from the same parent parcel either at the same time, prior to and/or after creation of the parcel; and what other grants, land divisions, mergers or transactions occurred involving the parcel after the initial creation of the parcel.

D. For issuance of a certificate of compliance pursuant to Government Code Sec. 66499.35 for a land division that occurred prior to the effective date of the Coastal Act, where the parcel(s) was not created in compliance with state law and local ordinances in effect at the time of its creation, or the parcel has subsequently been merged or otherwise altered, the certificate of compliance shall not be issued unless a coastal development permit that authorizes the land division is approved. In such cases, the City shall only approve a coastal development permit in the following situations:
(1) the land division complies with all policies and standards of the LCP, including the requirements of Section ###

of this Development Code for approval of land divisions, or
(2) the permit is conditioned to prohibit development on the affected parcels, unless and until compliance with all policies and standards of the LCP, including the requirements of Section ### of this Development Code for approval of land divisions, has been achieved; or
(3) if (a) prior to certification of the LCP, the Coastal Commission approved a coastal development permit authorizing construction of a residence on one or more of the parcels that were created from the same parent parcel as the parcel for which the COC is requested and (b) the owner of the parcel for which the COC is requested does not also own the parcel referred to above on which the Coastal Commission authorized construction of a residence, and (c) the owner of the parcel for which the COC is requested acquired it prior to certification of the LCP and is a good-faith, bonafide purchaser for value. In such a case, a coastal development permit authorizing the land division may be approved if it is conditioned to prohibit construction on the subject parcel unless it complies with all policies and standards of the LCP, including the requirements of Section ### of this Development Code for approval of land divisions, except the minimum parcel size; or
(4) if (a) the parcel that is the subject of the request for a COC is not in common ownership with any other contiguous parcels that were created from the same parent parcel and (b) the current owner of the subject parcel acquired it prior to certification of the LCP and is a good-faith, bonafide purchaser for value. In such a case, a coastal development permit authorizing the land division may be approved if it is conditioned to prohibit construction on the subject parcel unless it complies with all policies and standards of the LCP, the requirements of Section ### of this Development Code for approval of land divisions, except the minimum parcel size.

E. For issuance of a certificate of compliance pursuant to Government Code Sec. 66499.35 for a land division that occurred after the effective date of the Coastal Act, the certificate of compliance shall not be issued unless a coastal development permit that authorizes the land division is approved. In such cases, the City shall only approve a coastal development permit in the following situations:

(1) the land division complies with all policies and standards of the LCP, including the requirements of Section ### of this Development Code approval of land divisions; or
(2) if (a) prior to certification of the LCP, the Coastal Commission approved a coastal development permit authorizing construction of a residence on one or more of the parcels that were created from the same parent parcel as the parcel for which the COC is requested and (b) the owner of the parcel for which the COC is requested does not also own the parcel referred to above on which the Coastal Commission authorized construction of a residence, and (c) the owner of the parcel for which the COC is requested acquired it prior to certification of the LCP and is a good-faith, bonafide purchaser for value. In such a case, a coastal development permit authorizing the land division may be approved if it is conditioned to prohibit construction on the subject parcel unless it complies with all policies and standards of the LCP, including the requirements of Section ### of this Development Code for approval of land divisions, except the minimum parcel size; or
(3) if (a) the parcel that is the subject of the request for a COC is not in common ownership with any other contiguous parcels that were created from the same parent parcel and (b) the current owner of the subject parcel acquired it prior to certification of the LCP and is a good-faith, bonafide purchaser for value. In such a case, a coastal development permit authorizing the land division may be approved if it is conditioned to prohibit construction on the subject parcel unless it complies with all policies and standards of the LCP, including the requirements of Section ### of this Development Code for approval of land divisions, except the minimum parcel size.

If the requirements of Sections 18.84.030 (E)(1), (E)(2) or (E)(3) of this Development Code are not met, a coastal development permit for the proposed land division shall be denied.

18.84.030 - Condominiums

When a residential structure is proposed at the time of construction as a condominium, community apartment project, or stock cooperative, a Tentative Map for the project shall be filed in the same form, have the same contents and accompanying data and reports and shall be processed, approved or denied in the same manner in compliance with Chapter 18.81 (Tentative Map Filing and Processing). Chapter 18.82 (Parcel Maps and Final Maps) determines whether a Parcel or Final Map shall

also be filed. **Tentative Map approval does not replace, supercede, or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.**

18.84.040 - Lot Line Adjustment

A Lot Line Adjustment is permissible in compliance with Map Act Section 66412(d), and as follows.

A. **Application requirements.** An application for a Lot Line Adjustment shall be filed with the Director and shall include the information required by the Director, together with the processing fee specified by the City Fee Schedule.

B. **Lot line adjustment approval.** After consultation with the City Engineer, the Director shall approve a lot line adjustment provided that all criteria identified in Map Act Section 66412(d) are met to the Director's satisfaction. After City approval, the applicant shall be responsible for recording the approval document and paying the necessary fees charged by the County Recorder for recording Lot Line Adjustment approval documents in compliance with the Map Act.

C. **Coastal Development Permit.** ~~If a proposed Lot Line Adjustment involves property within the Coastal Zone, a~~ **A lot line adjustment shall also require a** Coastal Development Permit ~~shall be required~~ in compliance with **the certified LCP and processed pursuant to** Section 18.71.040 (Coastal Permits) ~~prior to the approval of the Lot Line Adjustment~~.

18.84.050 - Parcel Merger

A. **Procedures for merger of parcels.** Two or more parcels may be merged as follows.

1. Parcels may be merged in compliance with Map Act Chapter 3, Article 1.5. A parcel or unit may be merged with a contiguous parcel or unit held by the same owner if any one of the contiguous parcels or units held by the same owner does not conform to standards for minimum parcel size as identified by this Development Code applicable to the parcels or units of land, and if all of the requirements of Map Act Section 66451.11 are satisfied.
2. Parcels may also be merged in compliance with Map Act Sections 66499.20-1/2, or 66499.20-3/4; provided that a merger in compliance with Map Act Section 66499.20-3/4 shall require the recordation of an instrument evidencing the merger in the same manner as required by Map Act Section 66499.20-1/2.

B. **Requirements for unmerger of parcels.** The unmerger of parcels within the City shall comply with Map Act Chapter 3, Article 1.7.

C. **Coastal Development Permit.** ~~If a proposed parcel merger involves property within the Coastal Zone,~~ **A parcel merger shall also require a** Coastal Development Permit ~~shall be required~~ in compliance with **the certified LCP and processed pursuant to** Section 18.71.040 (Coastal Permits) ~~prior to the approval of the Lot Line Adjustment~~.

18.84.060 - Reversion to Acreage

A. **Procedures.** A Reversion to Acreage shall be initiated, processed, reviewed, and approved or denied in compliance with Map Act Chapter 6, Article 1.

B. **Application requirements.** An application for reversion submitted by a property owner shall include all information required by the Department, and shall include the fee required by the City Fee Schedule.

C. **Parcel Map in Lieu of Final Map.** A Parcel Map may be filed to revert to acreage land previously subdivided that consists of four or less contiguous parcels, in compliance with Map Act Section 66499.20-1/4.

D. **Effect of reversion.** The filing of a Parcel Map or Final Map to complete a Reversion to acreage shall also constitute the merger of the separate parcels into one parcel, in compliance with Map Act Section 66499.20-1/2.

E. **A reversion to acreage shall also require a CDP in compliance with the certified LCP and processed pursuant to Section 18.71.040 (Coastal Permits).**

CHAPTER 18.86 - DEDICATIONS AND EXACTIONS

Sections:

18.86.010 - Purpose of Chapter
18.86.020 - Applicability
18.86.030 - Reservations of Land for Public Facilities
18.86.040- Right-of-Way Dedications

18.86.010 - Purpose of Chapter

This Chapter establishes standards for subdivider dedications of land or payment of fees, in conjunction with subdivision approval. **This Chapter shall not govern the review and approval of coastal development permits.**

18.86.020 - Applicability

A. **Compliance required.** All proposed subdivisions shall comply with the requirements of this Chapter for dedications, reservations, or the payment of fees.

B. **Conditions of approval.** The requirements of this Chapter as they apply to a specific subdivision shall be described in conditions of approval adopted by the review authority for the Tentative Map.

18.86.030 - Reservations of Land for Public Facilities

As a condition of approval of a Tentative Map, the City may require the subdivider to reserve sites appropriate in area and location for fire stations, libraries or other public uses, pay an in-lieu fee or both at the option of the City in compliance with this Section.

A. **Standards for reservation of land.**

1. **Location of land.** Where a fire station, library, or other public use is shown in the General Plan or applicable Specific Plan, the subdivider may be required by the City to reserve sites as determined by the City in compliance with the standards in the applicable plan.

2. **Configuration.** The reserved area shall be of a size and shape that will permit the balance of the property to develop in an orderly and efficient manner. The amount of land to be reserved shall not make development of the remaining land held by the subdivider economically unfeasible. The land to be reserved shall be in multiples of streets and parcels that will permit an efficient division of the reserved area if it is not acquired within the period determined by Subsection B.

B. **Procedure for reservation of land.** The public agency for whose benefit an area has been reserved shall at the time of approval of the Parcel or Final Map enter into a binding agreement with the subdivider to acquire the reserved area within two years after the completion and acceptance of all improvements, unless a longer time is authorized by mutual agreement.

C. **Purchase price of reserved land.** The purchase price shall be the market value of the land at the time the Tentative Map is filed, plus the property taxes against the reserved area from the date of the reservation, and any other costs incurred by the subdivider in maintaining the reserved area, including interest costs incurred on any loan covering the reserved area.

D. **Termination of reservation.** If the public agency for whose benefit an area has been reserved does not enter into a binding agreement as described in Subsection B. (Procedure for Reservation of Land), the reservation shall automatically terminate.

18.86.040 - Right-of-Way Dedications

A. **Offers of dedication required.** As a condition of Tentative Map approval, the subdivider shall dedicate or make an irrevocable offer of dedication of all parcels of land within the subdivision that are needed for streets, alleys, including access rights and abutters' rights, drainage, public utility easements, and other public easements. In addition, the subdivider shall improve or agree to improve all streets, alleys, including access rights and abutters' rights, drainage, public utility easements, and other public easements.

B. **Improvements.** The subdivider shall construct or agree to construct all improvements approved or required for the subdivision, including access rights and abutters' rights, in compliance with the City's improvement standards.

C. **Rights-of-way, generally.** Rights-of-way shall be of sufficient size to accommodate the required improvements. In addition, where parcels front on a City-maintained road of insufficient width, or when the existing right-of-way is not deeded, the subdivider shall dedicate right-of-way sufficient for the ultimate facility.

D. **Limited access designation.** Whenever the review authority finds a safety hazard would be created as the result of direct access from any parcel to any existing or proposed street, the review authority may impose a requirement that any dedication or offer of dedication of a street shall include a waiver of direct access rights to the street from any property shown on a Final Map as abutting the street, and that if the dedication is accepted, the waiver shall become effective in compliance with the provisions of the waiver of direct access. The review authority may also require waivers of access to an existing street already dedicated which abuts the subdivision.

E. **Transit facilities.** Dedications in fee simple or irrevocable offers of dedication of land within the subdivision may be required for local transit facilities including bus turnouts, benches, shelters, landing paths and similar items that directly benefit the residents of the subdivision if deemed necessary by the City Engineer, and if, in compliance with Map Act Section 66475.2:

1. The subdivision as shown on the Tentative Map has the potential for 200 dwelling units or more if developed to the maximum density shown in the General Plan; and

2. The review authority finds that transit services are or will, within a reasonable time period, be available to the subdivision.

F. **Alternative transportation systems.** Whenever the subdivision falls within an area designated for the development of bikeways, hiking or equestrian trails in the General Plan, Parks and Recreation or Bikeways Master Plans, applicable Specific Plan, or implementing legislation, the subdivider shall dedicate land as is necessary to provide for these ways.

CHAPTER 18.88 - SUBDIVISION DESIGN AND IMPROVEMENT REQUIREMENTS

Sections:

18.88.010 - Purpose of Chapter
18.88.020 - Applicability of Design and Improvement Standards
18.88.030 - Subdivision Design Standards
18.88.040 - Site Preparation and Subdivision Construction
18.88.050 - Subdivision Improvement Requirements
18.88.060 - Improvement Plans
18.88.070 - Installation of Improvements
18.88.080 - Improvement Agreements and Security
18.88.090 - Soils Reports

18.88.010 - Purpose of Chapter

This Chapter establishes standards for the design and layout of subdivisions, and the design, construction or installation of public improvements within subdivisions. The purpose of these standards is to ensure, through careful site evaluation and design, the creation of new usable parcels that are consistent with the General Plan, the Local Coastal Program, and any applicable specific plan. **This Chapter shall not govern the review and approval of coastal development permits.**

18.88.020 - Applicability of Design and Improvement Standards

The requirements of this Chapter apply as follows:

A. **Extent of required improvements.** Each subdivision of four or fewer parcels, and each subdivision of five or more parcels, shall provide the improvements required by this Chapter, and any additional improvements required by conditions of approval.

B. **Applicable design standards, timing of installation.** The subdivider shall construct all on- and off-site improvements according to standards approved by the City Engineer. No Final or Parcel Map shall be presented to the Council for approval until the subdivider either completes the required improvements, or enters into a subdivision improvement agreement with the City for the work.

C. **Subdivision improvement standards - Conditions of approval.** The applicable subdivision improvement and dedication requirements of this Chapter and any other improvements and dedications required by the review authority in compliance with Section 18.81.070 (Tentative Map Approval or Disapproval), shall be described in conditions of approval adopted for each approved Tentative Map (Section 18.81.080). The design, construction or installation of all subdivision improvements shall comply with the requirements of the City Engineer.

D. **Oversizing of improvements.**

1. At the discretion of the review authority, improvements required to be installed by the subdivider for the benefit of the subdivision may also be required to provide supplemental size, capacity, number, or length for the benefit of property not within the subdivision, and may be required to be dedicated to the City, in compliance with Map Act Article 6, Chapter 4.

2. In the event that oversizing is required, the City shall comply with all applicable provisions of Map Act Sections 66485 et seq., including the reimbursement provisions of Map Act Section 66486.

3. If a parcel proposed for subdivision is subject to an existing reimbursement agreement, the subdivider shall pay the required reimbursement prior to the recordation of the Final Map, or the issuance of a building permit for construction on the parcel, whichever occurs first.

E. **Exceptions.** Exceptions to the requirements of this Chapter may be requested and considered in compliance with Section 18.80.090 (Exceptions to Subdivision Standards).

18.88.030 - Subdivision Design Standards

A. **Purpose.** This Section establishes standards for the design and layout of subdivisions, and the design, construction or installation of public improvements within subdivisions. The purpose of these standards is to ensure, through careful site evaluation and design, the creation of new usable parcels that are consistent with the General Plan, Local Coastal Program, and any applicable specific plan.

B. **Residential density.** The maximum number of dwelling units permitted within a proposed subdivision shall not exceed the density established by the ~~General Plan~~ **Local Coastal Program** for the site and the maximum number of dwelling units permitted by the applicable zoning district, except in the case where a density bonus is granted in compliance with Chapter 18.31 (Density Bonuses and Affordable Housing Incentives).

C. **Streets and street layout.** The layout, design, and construction of proposed streets shall comply with the General Plan, the City's *Standard Specifications for Public Improvements* the following requirements, and the energy conservation standards of Subsection G.

1. **Interconnected streets.** Streets proposed within a new subdivision shall be interconnected and shall connect with adjacent streets external to the subdivision, to provide multiple routes for pedestrian and vehicle trips from, to, and within the subdivision, as determined by the review authority to be appropriate.

2. **Street extensions and stub streets.**

   a. **Street extensions.** Where the subdivision adjoins unsubdivided land, streets in the subdivision shall be extended to the adjacent unsubdivided land, as prescribed by the review authority, to provide access to the unsubdivided land in the event of its future subdivision.

   b. **Stub street improvements.** In the case of stub-end streets extending to the boundary of the property, a barricade, the design to be approved by the City Engineer, shall be constructed at the end of the stub-end street, pending the extension of the street into adjacent property. Where required by the commission, a temporary connection to another street, or a temporary turnaround, shall be provided by the subdivider.

   c. **Required notification.** The developer shall pay the cost for the City to install a sign at the location of a future street extension to give notice to future homebuyers that the street will be opened or extended at some time in the future. The sign shall be installed prior to the sale of the first unit within the project.

3. **Dead-end streets.** Subdivision design shall not include dead-end streets except where through streets cannot be provided because of existing development or an environmental feature requiring protection and/or preservation (e.g., a creek channel). The length of a dead-end street shall not exceed 500 feet, except that a dead-end street of up to 600 feet in length may be permitted, provided that it has frontage of no more than 16 lots.

4. **Intersection design.** All streets shall normally intersect as nearly as possible at right angles, except when it can be shown that any other street pattern will improve design of the subdivision without hindering traffic safety. Street intersections shall be narrowed at each corner with traffic-calming features, in compliance with the City's Standard Specifications for Public Improvements.

5. **Pedestrian walkways away from street frontages.** As part of subdivision approval, the City may require dedicated and improved pedestrian walkways in locations away from street frontages where necessary to provide safe and convenient pedestrian access to a public facility or to otherwise provide convenient connections between existing pedestrian routes. Where walkways are required, the City Engineer shall specify standards for their design and construction.

6. **Street dedications.** A street that is not constructed to City standards will not be accepted by the City for dedication as a public street. However, even a street that complies with all applicable City standards may not be accepted for dedication. Acceptance of street dedication is at the discretion of the Council.

D. **Block design.**

1. **Block length.** No block face shall exceed a length of 500 feet. No block perimeter shall exceed 2,000 feet.

2. **Block width.** The width of each block shall be sufficient for an ultimate layout of two tiers of lots within the block, preferably with an alley between the tiers, with the lots sized in compliance with this Section. The review authority may approve alternative designs where it determines that surrounding subdivision layout, property lines, or topographic conditions require other standards.

E. **Parcel design.** The size, shape and arrangement of proposed parcels shall comply with this Section, and with any General Plan policy, specific plan requirement, or other Municipal Code provision that applies to proposed subdivisions.

1. **General parcel design standards.**

a. Each proposed parcel shall be determined by the review authority to be "buildable" because it contains at least one building site that can accommodate a structure in compliance with all applicable provisions of this Development Code.

b. No parcel shall be created that is divided by a City boundary line.

c. No subdivision shall be approved which leaves unsubdivided islands, strips or parcels, or property unsuitable for subdividing, which is not either accepted by the City or other appropriate entity for public use, or maintained as common area, within the development.

2. **Parcel area.** The minimum area for new parcels shall be as required by Article 2 (Zoning Districts and Allowable Land Uses) for the applicable zoning district, except as otherwise provided by this Section.

a. **Calculation of area.** When calculating the area of a parcel to determine compliance with this Section, Article 2, or the General Plan, the following shall be deducted from the gross area of any parcel, regardless of whether they may be used by the general public or are reserved for residents of the subdivision:

(1) A vehicular or non-vehicular access easement through the parcel;

(2) An easement for an open drainage course, whether a ditch, natural channel or floodway; or

(3) The "flag pole" (access strip) of a flag lot.

b. **Minimum lot area requirements for common interest projects.** The minimum lot area requirements of Article 3 shall not apply to condominiums, condominium conversions, and townhouses, but shall apply to the creation of the original parcel or parcels that are the location of the condominium or townhouse.

3. **Dimensions.** The dimensions of new parcels shall comply with the applicable provisions of Article 2, or as otherwise required by the review authority.

4. **Lot line orientation.** Side lot lines shall be at right angles to the street on straight streets and shall be approximately radial on curved streets.

5. **Parcel configuration.** The layout of proposed parcels and streets shall be designed to use land efficiently and minimize site disturbance in terms of cuts and fills and the removal of vegetation. See also the lot design provisions regarding energy conservation in Subsection F.

   a. **Street frontage required.** Each proposed parcel shall have frontage on a public street. The frontage width shall be at least the minimum lot width required by the applicable zoning district, except where a flag lot is approved in compliance with Subsection E.3.d (Flag lots).

   b. **Double-frontage lots.** Parcels with streets along both the front and rear lot lines shall be prohibited, except when necessitated by topographical or other physical conditions or where access from one of the roads is prohibited. (An alley is not considered a street for the purposes of this Section.)

      Vehicular access onto a double frontage lot shall not be from a major (i.e., arterial or collector) street, but shall be taken from a residential street or the more minor of the two frontages; however, the primary building facade shall face the major street.

   c. **Cul-de-sac parcels.** The minimum street frontage width for cul-de-sacs shall be 25 feet. The minimum depth of a parcel accessed by a cul-de-sac shall be an average of 90 feet.

   d. **Flag lots.** Flag lots may be approved only where the review authority determines that unusual depth or other characteristic of a parcel to be subdivided prevents one or more proposed parcels from having a frontage width equal to the minimum lot width required by the applicable zoning district. Where allowed, the "flag pole" portion of a flag lot shall have a minimum width of 20 feet; provided that the review authority may require additional width depending upon the length of the flag pole and traffic safety sight distance considerations. No more than two parcels shall be provided access from a single flag pole.

6. **Driveway standards.** Proposed parcels shall be designed to accommodate driveways designed in compliance with Section 18.36.100 (Driveways and Site Access). A subdivision of larger parcels shall be designed so that individual parcels are designed with single, or limited access points, with access easements to serve the smaller lots. Safety shall be the principal factor in determining the number and location of access points.

F. **Energy conservation.** Each proposed subdivision shall be designed to provide maximum opportunities for energy conservation, including opportunities for passive or natural heating or cooling opportunities, in compliance with Map Act Section 66473.1.

G. **Walled or gated communities.** No residential development within the City shall be entirely enclosed by a wall or fence, and no residential area shall be provided with gates or other limitations on general public pedestrian or vehicle access to the streets or sidewalks within the development.

18.88.040 - Site Preparation and Subdivision Construction

A. **Grading.** Prior to the issuance of a Building Permit, a grading plan prepared and signed by a registered civil engineer shall be submitted to the City Engineer. The grading plan and proposed grading shall comply with all applicable requirements of Chapters 18.60 (Grading Permit Requirements and Procedures), and 18.62 (Grading, Erosion, and Sediment Control Standards).

B. **Erosion and sediment control.** A proposed subdivision shall be designed so that all grading incorporates appropriate erosion and sediment control measures.

18.88.050 - Subdivision Improvement Requirements

Each subdivision shall be constructed with the following improvements as applicable, and as required by Tentative Map conditions of approval, the approved subdivision improvement plans, and in compliance with the City's Standard Specifications for Public Improvements, and Municipal Code Title 12 (Public Improvements), and Title 14 (Water and Sewers).

A. **Bicycle paths and multiple use trails.** The subdivider shall construct bicycle paths, multiple use trails, and/or access to multiple use trails within an approved subdivision in compliance with the **Local Coastal Program** ~~Circulation, Parks and Recreation, and Coastal Elements of the General Plan~~. In the event that the Council determines that bicycle path construction within a subdivision would be infeasible or constitute unsound engineering, the Council may grant the subdivider the option to pay into the City's Bicycle Path Fund the amount per foot, as determined by the Council.

B. **Bridges and major thoroughfares.** The City may assess and collect fees as a condition of issuing a building permit for the purpose of defraying the actual or estimated costs of constructing bridges or major thoroughfares in compliance with Map Act Section 66484, after the City has established a master plan for bridge crossings and major thoroughfares by ordinance.

C. **Fire hydrants.** The subdivider shall install gate valves, extensions and risers for fire hydrants, of sizes and at locations approved by the Fire Chief.

D. **Landscaping.** Landscaping shall be provided in compliance with Chapter 18.34 (Landscaping Standards).

E. **Monuments.** The subdivider shall install monuments in compliance with the requirements of the City Engineer, and Map Act Chapter 4, Article 18.

F. **Private facilities - Maintenance.** A subdivision with common area or private streets shall have conditions, covenants, and restrictions (CC&Rs) approved by the City to provide for the maintenance of the common areas and/or private streets, and establish standards for maintenance.

G. **Public utilities and utility easements.** Each approved parcel shall be provided connections to public utilities, including electricity, gas, water, sewer, and telecommunications services, which shall be installed as part of the subdivision improvements as provided by this Section.

1. **Underground utilities required.** Utilities in new subdivisions shall be installed underground, as follows. These requirements do not apply to utility lines which do not serve the area being subdivided. Telecommunications facilities are also subject to the requirements of Chapter 18.44 (Telecommunications Facilities).

a. **When undergrounding is required.** All existing and proposed utility distribution facilities (including electric, telecommunications and cable television lines) installed in and for the purpose of supplying service to any subdivision shall be installed underground. Equipment appurtenant to underground facilities, including surface mounted transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts, shall also be located underground or entirely within a building.

The subdivider is responsible for complying with the requirements of this Section and shall make the necessary arrangements with the affected utility companies for facility installation.

b. **Location of installation.** Underground utility lines may be installed within street rights-of-way or along a lot line, subject to appropriate easements being provided if necessary. When installed within street rights-of-way, their location and method of installation, insofar as it affects other improvements within the street right-of-way, shall be subject to the approval of the City Engineer.

2. **Utility easements - Minimum width.** The minimum width of easements for public or private utilities, sanitary sewers, or water distribution systems shall be determined by the review authority based on the recommendations of the City Engineer for City facilities, and the recommendations of the applicable utility company, for public or private utilities.

3. **Timing of installation.** All underground utilities, water lines, sanitary sewers, and storm drains installed in streets, shall be constructed before the streets are surfaced. Connections to all underground utilities, water lines, and sanitary sewers from approved parcels shall be laid to sufficient lengths, as determined by the City Engineer, to avoid the need for disturbing the street improvements when service connections are made.

H. **Railroad crossings.** A proposed subdivision shall be designed to provide for railroad crossings necessary to provide access to or circulation within the proposed subdivision, including the preparation of all documents necessary for application to the California Public Utilities Commission for the establishment and improvement of the crossings. The subdivider shall deposit with the City Clerk, in cash, the estimated costs to be incurred by the City in pursuing the application for railroad crossings before the Public Utilities Commission. Upon termination of the proceedings before the Public Utilities Commission, an accounting of the deposit will be made and an additional charge or refund will be made to the subdivider.

I. **Sewage disposal.** Each parcel within an approved subdivision shall be provided a connection to the City's sewage collection, treatment, and disposal system, in compliance with the City's improvement standards and specifications. The subdivider shall also pay the City's required connection fee.

J. **Streets.** All public streets within an approved subdivision shall be constructed by the subdivider in compliance with Section 18.88.030.C (Streets and Street Layout), and the approved subdivision improvement plans. Private streets are prohibited.

K. **Street lighting.** All proposed subdivisions shall provide street lighting facilities designed and constructed in compliance with the City's improvement standards and specifications. The subdivider shall also pay the street light maintenance and energy fee required by the City.

L. **Street signs and street names.** The naming of streets within a proposed subdivision shall comply with Municipal Code Chapter 12.12 (Street Naming and Address Assigning).

M. **Storm drainage.** Storm water runoff from the subdivision shall be collected and conveyed by an approved storm drain system. The storm drain system shall be designed for ultimate development of the drainage area. The storm drain system shall provide for the protection of abutting and off-site properties that would be adversely affected by any increase in **peak** runoff attributed to the development; off-site storm drain improvements may be required to satisfy this requirement. Any easement for drainage or flood control shall be improved as specified by the City Engineer.

N. **Storm drainage and sanitary sewer fees.** Prior to the filing of a Final Map or Parcel Map, the subdivider shall pay any fees for defraying the actual or estimated costs of constructing planned drainage facilities for the removal of surface and storm waters from local or neighborhood drainage areas, or sanitary sewer facilities for local sanitary sewer areas established in compliance with Map Act Section 66483. This requirement shall not be applied until the City has established a master plan for the neighborhood or sanitary areas by ordinance.

O. **Water supply.** Each approved parcel shall be served by the City's water distribution system and shall be designed and constructed to accommodate both domestic and fire flows, together with necessary fire hydrants to serve each lot proposed to be created.

18.88.060 - Improvement Plans

After the approval of a Tentative Map, the subdivider shall diligently proceed to complete any subdivision improvements necessary to fulfill the conditions of approval. Before the construction of any improvements, the subdivider shall submit plans to the City as follows:

A. **Preparation and content.** Improvement plans shall be prepared by a California registered civil engineer. Improvement plan submittals shall include the following information:

1. Any drawings, specifications, calculations, design reports and other information required by the City Engineer;

2. Grading, drainage, erosion and sediment control, and a storm water pollution prevention plan (SWPPP) for the entire subdivision; and

3. The improvement plan/specification checking and construction inspection fees required by the City Fee Schedule.

B. **Submittal of plans.** Improvement plans shall be submitted to the City Engineer and other reviewing agencies for review and approval. Upon the approval of improvement plans in compliance with Subsection C. following, the subdivider shall also submit to the City Engineer a detailed cost estimate of all improvements, based on guidelines provided by the City.

C. **Review and approval.** Improvement plans shall be reviewed and approved by the City Engineer, within the time limits provided by Map Act Section 66456.2.

D. **Effect of approval.** The final approval of improvement plans shall generally be required before approval of a Parcel or Final Map. The approval of improvement plans shall not bind the City to accept the improvements nor waive any defects in the improvements as installed.

18.88.070 - Installation of Improvements

Subdivision improvements required as conditions of approval of a Tentative Map in compliance with this Chapter (see Section 18.88.050) shall be installed as provided by this Section.

A. **Timing of improvements.** Required improvements shall be constructed or otherwise installed only after the approval of improvement plans in compliance with Section 18.88.060, and before the approval of a Parcel or Final Map in compliance with Sections 18.82.060 (Parcel Map Approval) or 18.82.100 (Final Map Approval), except where:

1. Improvements are deferred in compliance with Section 18.88.080 (Improvement Agreements and Security); or

2. Improvements are required as conditions on the approval of a subdivision of four or fewer lots, in which case construction of the improvements shall be required:

   a. When a Building Permit is issued for development of an affected parcel; or

   b. At the time the construction of the improvements is required in compliance with an agreement between the subdivider and the City, as set forth in Section 18.88.080 (Improvement Agreements and Security); or

   c. At the time set forth in a condition of approval, when the review authority finds that fulfillment of the construction requirements by that time is necessary for public health and safety, or because the required construction is a necessary prerequisite to the orderly development of the surrounding area.

3. To avoid breaking up street paving, underground utility or service lines required to be installed as part of a subdivision and are planned to run across or underneath the right-of-way of any street or alley shall be

installed prior to the preparation of subgrade and prior to the surfacing of any streets or alleys. In the event that the development of the subdivision requires the utility company to perform utility construction work, the developer shall pay a deposit satisfactory to the utility company within sufficient time to permit construction work to be performed prior to subgrade preparation. In no event shall subgrade preparation commence before installation of all necessary utilities and laterals.

B. **Inspection of Improvements.** The construction and installation of required subdivision improvements shall occur as follows.

1. **Supervision.** Before starting any work, the contractor engaged by the subdivider shall designate in writing an authorized representative who shall have the authority to represent and act for the contractor in contacts with the City. The designated representative shall be present at the work site at all times while work is in progress. At times when work is suspended, arrangements acceptable to the City Engineer shall be made for any emergency work that may be required.

2. **Inspection procedures.**

   a. **Inspections required.** The City Engineer shall make any inspections as he/she deems necessary to ensure that all construction complies with the approved improvement plans. Where required by the City Engineer, the developer shall enter into an agreement with the City to pay the full cost of any contract inspection services determined to be necessary by the City Engineer.

   b. **Access to site and materials.** The City Engineer shall have access to the work site at all times during construction, and shall be furnished with every reasonable facility for verifying that the materials and workmanship are in accordance with the approved improvement plans.

   c. **Authority for approval.** The work done and all materials furnished shall be subject to the inspection and approval of the City Engineer. The inspection of the work or materials shall not relieve the contractor of any obligations to fulfill the work as prescribed.

   d. **Improper work or materials.** Work or materials not meeting the requirements of the approved plans and specifications may be rejected, regardless of whether the work or materials were previously inspected by the City Engineer. In the event that the City Engineer determines that subdivision improvements are not being constructed as required by the approved plans and specifications, he or she shall order the work stopped and shall inform the contractor of the reasons for stopping work and the corrective measures necessary to resume work. Any work done after issuance of a stop work order shall be a violation of this Chapter.

3. **Notification.** The subdivider shall notify the City Engineer upon the completion of each stage of construction as outlined in this Chapter, and shall not proceed with further construction until authorized by the City Engineer.

18.88.080 - Improvement Agreements and Security

A subdivider may file a Parcel or Final Map before completion of all the improvements required by this Development Code and conditions of approval of the Tentative Map, only when the subdivider first obtains Council approval of a subdivision improvement agreement executed and submitted for Council review by the subdivider, and provides the City performance security as required by this Section. Improvement agreements and required security shall also comply with Chapter 5 of the Map Act.

A. **Contents of improvement agreement.** A subdivision improvement agreement shall be submitted on the a form provided by the City and approved by the City Attorney and shall include the following provisions:

1. **Description of improvements.** A description of all improvements to be competed by the subdivider, with reference to the approved subdivision improvement plans;

2. **Time limit for construction.** The period within which all required improvements will be completed to the satisfaction of the City Engineer;

3. **Completion by City.** Provided that if the subdivider fails to compete all required improvements within the specified time, the City may elect to complete the improvements and recover the full cost and expenses thereof from the subdivider or the surety, including any attorney and legal fees associated with enforcement of the agreement;

4. **Surety requirement.** Require the subdivider to secure the agreement by furnishing security for full and faithful performance and to ensure payment to laborers and material suppliers, as specified in Subsection B. The amount of surety shall be based on an engineer's cost estimate submitted by the subdivider and approved by the City Engineer. The total cost of improvements to be guaranteed shall be as provided in the approved engineer's cost estimate; and

5. **Phased construction.** Provisions for the construction of improvements in units, at the option of the subdivider.

B. **Security required to guarantee improvements.** A subdivision improvement agreement or a subdivision road maintenance and repair agreement shall be secured by adequate surety in a form approved as to form and sufficiency by the City Attorney, as follows:

1. **Type of security.** Improvement security shall be in the amount set forth or authorized in Map Act Section 66499.3.

   a. If the security is other than a bond or bonds furnished by a duly authorized corporate surety, an additional amount shall be included as determined by the Council as necessary to cover the cost and reasonable attorney's fees, which may be incurred by the City in successfully enforcing the obligation secured.

   b. The security shall also secure the faithful performance of any changes or alterations in the work, to the extent that such changes or alterations do not exceed 10 percent of the original estimated cost of the improvement.

2. **Form of security.** The required surety shall consist of one or more of the following forms selected by the City Engineer for the full amounts specified in Subsection B.1 above.

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

b. A bond or bonds executed by one or more duly authorized corporate sureties;

c. An instrument of credit from an agency of the state, federal, or local government when any said agency provides at least 20 percent of the financing for the portion of the act or agreement requiring security, or from one or more financial institutions subject to regulation by the State or Federal government pledging that funds necessary to carry out the act or agreement are on deposit and guaranteed for payment; or a letter of credit issued by such a financial institution;

d. A lien upon the property to be divided, created by contract between the owner and the City, where the review authority finds that it would not be in the public interest to require the installation of the required improvement sooner than two years after the recordation of the Map, or

e. Any form of security, including security interests in real property, which is acceptable to the local agency.

C. **Time extensions.** An extension of time for completion of improvements under a subdivision improvement agreement shall be granted by the Council only as follows:

1. **Public Works report.** The City Engineer notifies the Council that either the subdivider is proceeding to do the work required with reasonable diligence or is not yet ready to develop the subdivision, and has given satisfactory evidence of being able and willing to complete all required work within the time of the requested extension.

2. **Agreement by sureties.** The sureties agree in writing to extend for the additional period of time at the original amount of the bond or other surety, or if recommended by the City Engineer, at an increased amount.

3. **Council action.** The Council approves the extension by at least a four-fifths vote. As a condition of granting a time extension, the Council may impose whatever additional requirements the Council deems reasonable to protect the public interest.

D. **Acceptance of improvements.** Before acceptance for maintenance or final approval by the Council of subdivision improvements, the City Engineer shall verify that the improvement work has been completed in substantial compliance with the approved plans and specifications.

18.88.090 - Soils Reports

Soils reports shall be provided by the subdivider as required by this Section.

A. **Preliminary soils report.** A preliminary soils report based upon adequate test borings and prepared by a registered civil engineer shall be required for every subdivision. The preliminary soils report shall be submitted with the Tentative Map application.

1. **Form of report.** A preliminary soils report may be divided into two parts:

a. **Soils reconnaissance.** The soils reconnaissance shall include a complete description of the site based on a field investigation of soils matters. The soils matters reviewed shall include stability, erosion, settlement, feasibility of construction of the proposed improvements, description of soils related hazards and problems and proposed methods of eliminating or reducing these hazards and problems; and

b. **Soils investigation and report.** This investigation and report shall include field investigation and laboratory tests with detailed information and recommendations relative to all aspects of grading, filling and other earthwork, foundation design, pavement design and subsurface drainage.

The report shall also recommend any required corrective action for the purpose of preventing structural damage to subdivision improvements and the structures to be constructed on the lots. The report shall also recommend any special precautions required for erosion control, and the prevention of sedimentation or damage to off-site property.

If the preliminary soils report indicates the presence of critically expansive soils or other soils problems which, if not corrected, would lead to structural defects or environmental impacts, a subsequent soils investigation of each parcel in the subdivision may be required and shall be submitted to and approved by the City Engineer before approval of a Parcel or Final Map.

2. **Preliminary soils report waiver.** The preliminary soils report may be waived if the City Engineer determines that existing available information on the qualities of the soils of the subdivision makes no preliminary analysis necessary.

B. **Final soils report.** A final soils report prepared by a registered civil engineer shall be required where a preliminary soils report was required, unless the final report is waived by the City Engineer.

1. Two copies of the final soils investigation and report shall be filed with the improvement plans.

2. The report shall contain sufficient information to ensure compliance with all recommendations of the preliminary soils report and the specifications for the project.

3. The report shall also contain information relative to soils conditions encountered which differed from that described in the preliminary soils reports, along with any corrections, additions or modifications not shown on the approved plans.

C. **Geologic investigation and report.** If the City Engineer determines that conditions warrant, a geologic investigation and report may also be required.

Article 9
Land Use and Development Code Administration

ARTICLE 9

Land Use and Development Code Administration

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CHAPTER 18.90 - NONCONFORMING USES, STRUCTURES, AND PARCELS

Sections:

18.90.010 - Purpose of Chapter
18.90.020 - Definitions
18.90.030 - Restrictions on Nonconforming Structures and Uses
18.90.040 - Residential Exemptions
18.90.050 - Loss of Nonconforming Status
18.90.060 - Nonconforming Parcels
18.90.070 - Parcels Lacking Frontage on a Public Way
18.90.080 - Nonconforming Due to Lack of a Use Permit

18.90.010 - Purpose of Chapter

A. This Chapter provides regulations for nonconforming land uses, structures, and parcels that were lawful before the ~~adoption~~ **effective date**~~, or amendment~~ of this Development Code **or any subsequent amendments thereto**, but which would be prohibited, regulated, or restricted differently under the current terms of this Development Code or an amendment that changed the applicable requirements.

B. It is the intent of this Development Code to generally discourage the long-term continuance of nonconformities other than residential uses, while allowing them to exist under the maintenance and repair provisions of this Chapter. Where the Council determines that a nonconformity appears to "fit well" with surrounding uses and the prevailing character of the immediate neighborhood, and where the nonconformity does not present any public health or safety issues, as determined by the Council, the City may allow its continuance in compliance with this Chapter.

18.90.020 - Definitions

A. **Nonconforming parcel.** A parcel that was legally created before the ~~adoption~~ **effective date**, of this Development Code **or any subsequent amendments thereto** ~~or amendment~~, but does not comply with the current area, width, depth, or other applicable requirements of this Development Code.

B. **Nonconforming sign.** A sign that lawfully existed before the effective date of this Development Code or **any subsequent amendments thereto** ~~amendment~~, but does not comply with the current sign regulations of this Development Code.

C. **Nonconforming structure.** A structure that was legally constructed before the **effective date** of this Development Code **or any subsequent amendments thereto** ~~or amendment~~, but does not comply with the current setback, height limit, off-street parking, and/or other applicable requirements of this Development Code.

D. **Nonconforming use.** A use of land and/or a structure (either conforming or nonconforming) that was legally established and maintained before the **effective date** of this Development Code **or any subsequent amendments thereto** ~~or amendment~~, but does not conform to the current Development Code requirements for allowable land uses within the applicable zoning district.

18.90.030 - Restrictions on Nonconforming Structures and Uses

A nonconforming land use and the use of a nonconforming structure may be continued, including transfers of ownership; provided, their continuation shall comply with the requirements of this Section. See Section 18.90.040 for exceptions regarding certain residential uses and structures.

The City shall only grant a Minor Use Permit if the City determines that the means of accommodating the Minor Use Permit: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Minor Use Permit will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Minor Use Permit.

Minor Use Permit approval does not replace, supercede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.

A. **Nonconforming use of land.**

1. **General rule.** A nonconforming use of land may be continued; provided, the use shall not be **intensified,** enlarged or increased, nor be **expanded** ~~extended~~ to occupy a greater area of land than it lawfully occupied before becoming nonconforming.

2. **Nonconforming use in a conforming structure.** A nonconforming land use within a conforming structure may be expanded or replaced with Minor Use Permit approval, in the following manner:

   a. **Expansion of use.** The nonconforming use of a portion of a structure may be **expanded** ~~extended~~ throughout the structure; and

   b. **Substitution of use.** The nonconforming use of a structure may be changed to another nonconforming use of the same or more restricted nature; except that if a nonconforming use is changed to a conforming use, no nonconforming use may be resumed.

B. **Nonconforming structure.** A nonconforming structure may continue to be used in the following manner:

1. **Changes to, or expansion of a structure.** A nonconforming structure may be changed or expanded as follows.

   a. **Nonresidential or multi-family structure.** A nonconforming structure may be enlarged, **expanded** ~~extended~~, reconstructed, or relocated, with Minor Use Permit approval, if the changes comply with all applicable provisions of this Development Code; provided, the review authority first finds that the additional work is compatible with neighboring uses and would not adversely impact neighboring properties.

   b. **Single-family dwelling.** A single-family dwelling that is nonconforming with respect to setback requirements, height limits, or other development standards may undergo interior modifications in compliance with Building Code requirements without limitation by this Chapter. Exterior modifications that go beyond the prior building footprint may be allowed as follows:

      (1) The Director may approve any addition to a nonconforming single-family dwelling where the addition complies with applicable setback requirements; and

      (2) An addition that encroaches into a required setback no further than an existing nonconforming portion of the structure may be allowed with Minor Use Permit approval, provided that: the addition is less than 25 percent of the total floor area of the existing structure; it complies with

Building Code requirements; and the review authority first determines that the addition will not adversely affect any neighboring property.

2. **Conversion of existing nonconforming structure to residential unit.** Within a residential zoning district, a nonconforming accessory structure within a rear yard may be converted to a second unit, and a nonconforming residential structure within a rear yard may be rehabilitated and expanded, provided that:

   a. The structure does not exceed one story in height; and

   b. The conversion and/or expansion complies with Subsection B.1.b.

3. **Ordinary maintenance and repair.** Any nonconforming structure may undergo ordinary maintenance and repair.

4. **Seismic retrofitting and Building Code compliance.** Any nonconforming structure may undergo alterations, reconstruction, or repair to reinforce unreinforced masonry or to comply with Building Code requirements; provided that the work is exclusively to comply with applicable earthquake safety standards and the Building Code, and does not change building footprint or height.

18.90.040 - Residential Minor Use Permit and Design Review Exemptions

A. **Reconstruction or replacement.** An involuntarily damaged or destroyed single- or multi-family nonconforming dwelling may be reconstructed or replaced with a new structure with the same footprint, height, and number of dwelling units, in compliance with current Building and Fire Code requirements. **Exemptions from Minor Use Permit or Design Review requirements do not replace supercede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.**

B. **Substantial rehabilitation/renovation.** Substantial rehabilitation/renovation of, and additions to an existing dwelling unit in a zoning district where residences are a nonconforming use may be allowed with Minor Use Permit and Design Review approval, in compliance with Sections 18.71.060 and 18.71.050. (Housing Element Program H-1.1.4)

1. **The City shall only grant a Minor Use Permit if the City determines that the means of accommodating the Minor Use Permit: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Minor Use Permit will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Minor Use Permit.**

2. **Minor Use Permit and Design Review approval, or exemptions from Minor Use Permit or Design Review requirements do not replace, supercede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.**

   3~~1~~. **Substantial rehabilitation/renovation defined.** Occurs when at least 25 percent of the floor area of the existing structure is proposed to be added to the structure and/or a Building Permit for construction valued at 50 percent or more of the assessed value of the structure before rehabilitation/renovation is requested.

   4~~2~~. **Protection of community and neighborhood character.** The review authority shall ensure that Minor Use Permit and Design Review approval for a substantial rehabilitation or renovation shall maintain public health, safety, and welfare, maintain ~~of~~ neighborhood character, and encourage mixed use development.

18.90.050 - Loss of Nonconforming Status

A. **Termination by discontinuance.**

1. If a nonconforming use of land or a nonconforming use of a conforming structure is discontinued for a continuous period of 12 months or more, all rights to legal nonconforming status shall terminate.

2. The Director shall base a determination of discontinuance on evidence including the 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.

3. The Director may grant a Minor Use Permit to allow an extension of that 12-month period for a period not to exceed an additional 12 months if the Director finds that circumstances of a significant or unusual nature prevent or have prevented the timely reestablishment of the use.

4. Once the rights to a legal nonconforming status have terminated, any further use of the site or structure shall comply with the regulations of the applicable zoning district and all other applicable provisions of this Development Code.

B. **Termination by destruction.** Nonconforming status shall terminate if a nonconforming structure, or a conforming structure occupied by a nonconforming use, is involuntarily damaged or destroyed; except as provided by Section 18.90.040 for dwellings, and except as follows.

1. If the cost of repairing or replacing the damaged portion of the structure is 75 percent or less of the assessed value of the structure immediately before damage, the structure may be restored to no more than the same size and use, and the use continued, if the restoration is started within 12 months of the date of damage and is diligently pursued to completion.

2. Minor Use Permit approval shall be required if the cost of repairing or replacing the damaged portion of the structure is more than 75 percent of the assessed value of the structure immediately before the damage, except that fair market value shall be used where a current licensed appraisal is available to the City. Minor Use Permit approval shall require a finding, in addition to those contained in 18.71.060.F (Findings and decision), that the benefit to the public health, safety, or welfare exceeds the detriment inherent in the restoration and continuance of a nonconformity.

a. The City shall only grant a Minor Use Permit if the City determines that the means of accommodating the Minor Use Permit: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Minor Use Permit will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Minor Use Permit.

b. Minor Use Permit and Design Review approval, does not replace, supercede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.

18.90.060 - Nonconforming Parcels

A. **Legal parcel ~~building site~~.** A nonconforming parcel that does not comply with the applicable area, width, or depth requirements of this Development 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 Director by evidence furnished by the applicant, **and had received any necessary coastal development permit. Development not authorized by Required Coastal**

Development Permit. Development that occurred after March 1, 1972, the effective date of the Coastal Zone Conservation Act, if applicable, that was not authorized by a required coastal development permit or otherwise authorized under the Coastal Act, is not lawfully established or lawfully authorized development

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 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 **legal** lot line adjustment; or

4. **Partial government acquisition.** The parcel was created in compliance with the provisions of this Development 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.

B. **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.

18.90.070 - Parcel Without Frontage on a Public Right-of-Way

A. **Conforming parcel without frontage on a public right-of-way.** A parcel without frontage on a public right-of-way, but otherwise conforming to the applicable requirements of this Development Code, may be used with Minor Use Permit approval, unless Article 2 would otherwise require a Use Permit. **Such Minor Use Permit approval does not replace, supercede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.**

B. **Parcel with private accessways.** If a private accessway was provided in conjunction with an approved subdivision map, the uses allowed in the applicable zoning district shall be considered conforming uses.

18.90.080 - Nonconforming Due to Lack of ~~a Use~~ Required Permits

A. **Conformity of uses requiring a Use Permit.** A use lawfully existing without the approval of a Use Permit or Minor Use Permit that would be required by this Development Code shall be deemed conforming only to the extent of its previous lawful use (e.g., maintaining the same site area boundaries, hours of operation, etc.).

B. **Previous planning permits in effect.** A use that was authorized by a Use Permit or Minor Use Permit but is not allowed by this Development Code in its current location may continue, but only in compliance with the original Use Permit or Minor Use Permit **and only if such use was authorized prior to March 1, 1972.**

C. **Development not authorized by Required Coastal Development Permit. Development that occurred after March 1, 1972, the effective date of the Coastal Zone Conservation Act, if applicable, that was not authorized by a required coastal development permit or otherwise authorized under the Coastal Act, is not lawfully established or lawfully authorized development. No improvements, repair, modification or additions to such existing development may be approved, unless the City also approves a coastal development permit that authorizes the existing development. The coastal development permit shall only be approved if the existing and proposed development, with any applicable conditions of approval, is consistent with all the policies and standards of the LCP.**

CHAPTER 18.92 - APPEALS

Sections:

18.92.010 - Purpose of Chapter
18.92.020 - Appeal Subjects and Jurisdiction
18.92.030 - Filing and Processing of Local Appeals
18.92.040 - Appeals to the Coastal Commission
18.92.050 - Judicial Review of City Decision

18.92.010 - Purpose of Chapter

This Chapter establishes procedures for the appeal and review of determinations and decisions of the Director or Commission.

18.92.020 - Appeal Subjects and Jurisdiction

A. **Code administration and interpretation.** The following determinations and actions of the Director and Department staff may be appealed to the Planning Commission and then to the Council:

1. Any determination on the meaning or applicability of the regulations contained in this Development Code that are believed to be in error, and cannot be resolved with the Director;

2. Any determination that a permit application or information submitted with the application is incomplete, in compliance with State law (Government Code Section 65943); and

3. Any enforcement action in compliance with Chapter 18.98 (Enforcement and Penalties).

B. **Planning permit decisions.** Decisions of the Director on an Administrative Variance, Coastal Development Permit, Design Review, Limited Term Permit, Minor Use Permit, Sign Permit, or Zoning Clearance may be appealed to the Commission. Decisions of the Commission may be appealed to the Council.

18.92.030 - Filing and Processing of Local Appeals

A. **Eligibility.**

1. An appeal in compliance with this Chapter may be filed by any aggrieved person as defined in Section 18.92.040(A)(2)~~(B)~~, except that in the case of a decision on a Use Permit, Variance, and/or other Commission decision that followed a public hearing, an appeal may only be filed by a person who, in person or through a representative, appeared at the public hearing in connection with the decision being appealed, or who otherwise informed the City in writing of the nature of their concerns before the hearing.

2. Any action or decision by the Commission in compliance with this Development Code may be appealed by a Council member acting as an individual, but the Council member shall not vote when the appeal is considered by the Council.

B. **Timing and form of appeal.** An appeal shall be submitted in writing and shall specifically state the pertinent facts and the basis for the appeal.

1. An appeal shall be filed with the Department or City Clerk, as applicable, within 10 days of the date the decision was rendered.

   a. Appeals addressed to the Commission shall be filed with the Department;

   b. Appeals addressed to the Council shall be filed with the City Clerk.

2. An appeal shall be accompanied by the filing fee identified in the City's Fee Schedule.

3. The appeal fee may be refunded by a majority vote of the Council if the appeal of the applicant is sustained by the Council.

C. **Scope of planning permit appeals.** An appeal of a decision on a planning permit shall be limited to issues raised at the public hearing, or in writing before the hearing, or information that was not known at the time of the decision that is being appealed.

D. **Report and scheduling of hearing.**

1. When an appeal has been filed, the Director shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate review authority identified in Section 18.92.020 (Appeal Subjects and Jurisdiction), above.

2. Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Chapter 18.96 (Public Hearings). Any interested party may appear and be heard regarding the appeal.

E. **Decision.**

1. At a hearing on an appeal, except for an appeal of a decision on a planning permit, the review authority may consider any issue involving the matter that is the subject of the appeal ("de novo"), in addition to the specific grounds for the appeal. The review authority may:

   a. Affirm, affirm in part, or reverse the action, determination, or decision that is the subject of the appeal, based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or non-compliance of the subject of the appeal with this Development Code;

   b. Adopt additional conditions of approval, that may address issues or concerns other than the subject of the appeal; or

   c. Disapprove the planning permit approved by the previous review authority, even where the appellant only requested a modification or elimination of one or more conditions of approval.

2. If new or different evidence is presented on appeal, the Commission or Council may refer the matter to the Director or Commission for further consideration.

3. Within 60 days of the initial public hearing, the review authority shall render its decision on the appeal, unless it is continued for good cause.

4. In the event of a tie vote by the review authority on an appeal, the decision being appealed shall stand.

F. **Effective date of appeal decision.**

1. **Commission decision.** A decision by the Commission is effective on the 11th day after the decision is rendered, when no appeal to the decision has been filed with the Council.

2. **Council decision.** A decision by the Council is final and shall be effective on the date the decision is rendered, except in the case of a development that is appealable to the Coastal Commission in compliance with Section 18.92.040 (Appeals to the Coastal Commission), below.

G. **Notice of final action on development that is appealable to the Coastal Commission. ~~appeals within the Coastal Zone~~.** Where ~~an~~ **local** appeal has been filed and decided on a project that is appealable to the Coastal Commission in compliance with Section 18.92.040 (Appeals to the Coastal Commission) below, the City shall provide notice of the final action in compliance with Subsection 18.71.040.**(H)**~~G~~ (Final City action on a Coastal Development Permit).

18.92.040 - Appeals to the Coastal Commission

Within ten (10) working days of Coastal Commission receipt of the Notice of Final Action, a ~~A final action taken by the City on a~~ Coastal Development Permit application for appealable development as defined in Subsection C. may be appealed to the Coastal Commission by an applicant, other aggrieved person **who has exhausted local appeals**, or **by** any two members of the Coastal Commission, in compliance with this Section.

A. **Status of appellant:**

1. **Who may appeal.** An appeal may be filed by an applicant, any aggrieved person **who has exhausted local appeals**, or two members of the Coastal Commission in compliance with State law (Public Resources Code Section 30625).

2. **Aggrieved person defined.** As provided by Public Resources Code Section 30801, an aggrieved person is anyone who, in person or through an explicitly identified representative, appeared at a public hearing before the Director, Commission, or Council in connection with the decision or appeal of any development, or who by other appropriate means before a hearing, informed the City of the nature of their concerns, unless for good cause was unable to do either.

B. **Exhaustion of City appeals required.** ~~An applicant or other aggrieved person may appeal a City decision on a planning permit to the Coastal Commission only after all appeals to the Planning Commission and Council have been exhausted in compliance with this Chapter. This limitation shall not apply to any circumstance identified in California Code of Regulations Section 13573, including:~~ **For appealable coastal development permits as defined in Subsection C, an appellant shall be deemed to have exhausted local appeals and shall be qualified as an aggrieved person where the appellant has pursued his or her appeal to the appellate bodies identified in this Chapter; except that exhaustion of all local appeals shall not be required if any of the following occur:**

1. An appellant was denied the right of appeal under this Chapter because City notice and hearing procedures did not comply with **the provisions of Section 18.71.040(F)** ~~Title 14, Division 5.5, Chapter 8, Subchapter 2 of the California Code of Regulations;~~ or

2. The City charges an appeal fee for the filing or processing of local appeals.

~~2~~**3**. An appeal of a City decision by two members of the Coastal Commission in compliance with Public Resources Code Section 30625. (Notice of a Coastal Commissioners' appeal shall be transmitted to the Council in compliance with California Code of Regulations Section 13573(b). The appeal shall be suspended where the City decision has been appealed to the Council. If the Council modifies or reverses the previous decision, the

Coastal Commissioners shall be required to file a new appeal of that decision.)

C. **Appealable development - Public Resources Code Section 30603(a).** A decision by the City on a **coastal development** permit application for any of the following projects may be appealed to the Coastal Commission **for only the following types of developments**:

1. **Between the sea and the first public road.** Developments **approved by the City** between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or the mean high tide line of the sea where there is no beach, whichever is the greater distance;

2. **Public trust lands, submerged lands, or tidelands.** Developments **approved by the City not included within paragraph (1) that are** located on public trust lands, submerged lands, tidelands, or within 100 feet of any estuary, stream, or wetland**, or within 300 feet of the top of the seaward face of any coastal bluff**; ~~and~~

3. **Developments approved by the City not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.**

~~3~~4. **Public works/energy facility.** Any development that constitutes a major public works project or **a major** energy facility**. The phrase "major public works" or a "major energy facility" as used in Public Resources Code Sec. 30603(a)(5) and in these regulations shall mean: any proposed public works project or energy facility, as defined by Section 13012 of the Coastal Commission Regulations and the Coastal Act.**

D. **Grounds for appeal to Coastal Commission - Public Resources Code Section 30603.** The grounds for an appeal to the Coastal Commission of a City decision are as follows:

1. For approval of development as described in Subsection C. above, an allegation that the development does not conform to the standards of the City's certified Local Coastal Program or the public access policies of the Coastal Act; or

2. For disapproval of development described in C.3. above, an allegation that the development conforms to the standards of the City's certified Local Coastal Program and the public access policies of the Coastal Act.

E. **Time limit for filing an appeal to the Coastal Commission.** An appeal of a Council decision on an appealable development shall be filed with the Coastal Commission within 10 working days of the receipt by the Coastal Commission of adequate notice of final City action, in compliance with this Chapter and the Coastal Act.

F. **Notice to City of appeal to Coastal Commission.** An appellant shall notify the City when appealing to the Coastal Commission by providing the City a copy of the information required by State law (California Code of Regulations Section 13111.)

18.92.050 - Judicial Review of City Decision

No person shall seek judicial review of a City decision on a planning permit or other matter in compliance with this Development Code until all appeals to the Commission and Council have been first exhausted in compliance with this Chapter and. where applicable all appeals to the Coastal Commission allowed by the Coastal Act.

CHAPTER 18.94 – LOCAL COASTAL PROGRAM AMENDMENTS

Sections:

18.94.010 - Purpose of Chapter
18.94.020 - Initiation of Amendment
18.94.030 - Processing, Notice and Hearing
18.94.040 - Commission Action on Amendment
18.94.050 - Council Action on Amendment
18.94.060 - Findings
18.94.070 - Effective Dates
18.94.080 - Amendments to the Local Coastal Program
18.94.090 - LCP Amendments to Accommodate On-shore Facilities

18.94.010 - Purpose of Chapter

This Chapter provides procedures for the amendment of the ~~General Plan, this Development Code, the~~ Local Coastal Plan, **including the General Plan for the Coastal Zone, this Development Code,** and the Zoning Map whenever the Council determines public necessity and general welfare, **or protection of coastal resources** require an amendment, **or where required by specific policies in the General Plan by following the procedures specified in this Chapter. For purposes of this Chapter, amendments of a certified Local Coastal Program includes, but is not limited to, any action by the City that authorizes the use of a parcel of land other than a use that is designated in the certified Local Coastal Program as a permitted use of the parcel. Such amendments will not take effect until effectively certified by the Coastal Commission.**

18.94.020 - Initiation of Amendment

An amendment **to the LCP** may be initiated by: ~~Commission or Council resolution, proposed by the Director, or:~~

1. Resolution of the City Council; or by
2. Resolution of intention of the Planning Commission;
3. Any person authorized to undertake a public works project or proposing an energy facility development may request to amend the local coastal program, if the purpose of the proposed amendment is to meet public needs of an area greater than that included within such certified local coastal program that had not been anticipated by the person making the request at the time the Local Coastal Program was before the Coastal Commission for certification.

~~A. In the case of the General Plan, Local Coastal Plan, or Zoning Map, an amendment may also be initiated by the filing of an amendment application with the Department by~~

4. the owner or authorized agent of property for which the amendment is sought. If the property is under more than one ownership, all owners or their authorized agents shall join in filing the application.

~~B. In the case of the Development Code, the Council may also adopt an urgency measure as an interim ordinance in compliance with State law (Government Code Section 65858).~~

18.94.030 - Processing, Notice, and Hearing

A. Contents of Amendment Applications. The amendment application shall include:

1. Except for amendments initiated under Section 18.94.020 (3) or (4), a summary of the measure taken to provide the public and affected agencies and districts maximum opportunity to participate in the LCP amendment process, pursuant to Section 19.3 of the Malibu LIP; a listing of members of the public, organizations, and agencies appearing at any hearing or contacted for comment on the LCP; and copies or summaries of significant comments received and of the City's response to the comments.

2. All policies, plans, standards, objectives, diagrams, drawings, maps, photographs, and supplementary data related to the amendment in sufficient detail to allow review for conformity with the requirements of the Coastal Act. Written documents should be readily reproducible. An amendment to a land use plan shall include, where applicable, a readily identifiable public access component as set forth in California Code of Regulations Section 13512.

3. The application shall be accompanied by a map drawn to scale showing the location of the property concerned and the location of all highways, streets and alleys, public easements or Offers to Dedicate Public Easements and all lots and parcels of land within a distance of five hundred feet from the exterior boundaries of the property involved. The accuracy of such map shall be the responsibility of the applicant.

4. A discussion of the amendment's relationship to and effect on the other sections of the certified LCP.

5. An analysis that meets the requirements of California Code of Regulations Section 13511 that demonstrates conformity with the requirements of Chapter 6 of the Coastal Act.

6. Any environmental review documents, pursuant to CEQA, required for all or any portion of the amendment to the LCP.

7. An indication of the zoning measures or implementation that will be used to carry out the amendment to the General Plan (unless submitted at the same time as the amendment to the General Plan).

A B. **Public hearings required.** After the filing and initial processing of a proposed amendment in compliance with Chapter 18.70 (Permit Application Filing and Processing), the Commission and Council shall each conduct one or more public hearings regarding the amendment. Notice of a public hearing shall be provided, and hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

~~B. **Notice affecting the Coastal Zone.** A proposed amendment affecting the Coastal Zone shall have notice provided to any member of the public who has requested notice.~~

C. **Specific plan requirement.** Prior to the filing of a proposed ~~General Plan and/or Zoning Map~~ LCP amendment for a site designated Timber Resources Industrial, a specific plan shall first be prepared in compliance with Chapter 18.78 (Specific Plans).

18.94.040 - Commission Action on Amendment

After the public hearing, the Commission shall forward a written recommendation, and reasons for the recommendation, to the Council whether to approve, approve in modified form, or disapprove the proposed amendment, based on the findings identified in Section 18.94.060 (Findings and Decision).

18.94.050 - Council Action on Amendment

A. **Approval or disapproval.** Upon receipt of the Commission's recommendation, the Council shall conduct a public hearing and either approve, approve in modified form, or disapprove the proposed amendment based on the findings identified in Section 18.94.060 (Findings and Decision).

B. **Referral to Commission.** If the Council proposes to adopt a substantial modification to the amendment not previously considered by the Commission, the proposed modification shall be first referred to the Commission for its recommendation, in compliance with State law (Government Code Sections 65356 and 65857).

18.94.060 - Findings and Decision

An amendment to the General Plan, this Development Code, or the Zoning Map may be approved only if all of the following findings are made, as applicable to the type of amendment.

A. **Findings for General Plan amendments.**

1. The amendment is internally consistent with all other provisions of the General Plan and any applicable specific plan;

2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and

3. The affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the proposed or anticipated uses and/or development would not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

B. **Findings for Development Code and Zoning Map text amendments.**

1. **Findings required for all Development Code and Zoning Map text amendments:**

   a. The proposed amendment is consistent with the General Plan and any applicable specific plan; and

   b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

2. **Additional finding for Development Code amendments:** The proposed amendment is internally consistent with other applicable provisions of this Development Code.

3. **Additional finding for Zoning Map amendments:** The affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the requested zoning designation and the proposed or anticipated uses and/or development would not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

18.94.070 - Effective Dates

An LCP amendment shall not take effect until the amendment has been certified by the Coastal Commission in compliance with the Coastal Act.

~~A. **General Plan.** A General Plan amendment shall become effective immediately upon the adoption of a resolution by the Council.~~

~~B. **Development Code/Zoning Map.** A Development Code/Zoning Map amendment shall become effective on the 31st day following the adoption of an ordinance by the Council.~~

~~18.94.080 - Amendment to the Local Coastal Program~~

~~A. **Amendment procedure.** The certified Local Coastal Program (LCP) or any portion (e.g., Land Use Plan or relevant provisions of these Development Code regulations) may be amended in compliance with the procedures in this Chapter for General Plan, Development Code, and Zoning Map amendments.~~

~~B. **Coastal Commission Certification.** An LCP amendment shall not take effect until the amendment has been certified by the Coastal Commission in compliance with the Coastal Act.~~

~~C. **Coastal Act requirements.** An amendment to the LCP approved by the Council in compliance with this Chapter shall be prepared for submittal, filed with the Coastal Commission, processed and decided by the Coastal Commission in compliance with the Coastal Act.~~

18.94.090 - LCP Amendment to Accommodate On-shore Facilities

A. **Intent and purpose.** An amendment to the City's LCP to allow the development, construction, or installation of on-shore facilities intended to support off-shore oil and gas exploration or development may be approved by the City only after a vote of the people of the City. **In addition, Section 30515 of the Coastal Act allows, in specified circumstances, a person proposing an energy facility development to file a direct request to the Coastal Commission to amend a Local Coastal Program, if a local government does not first approve such a request.**

B. **Definition of on-shore facilities.** For the purposes of this Section, the term "on-shore facilities" shall include the following terms:

1. **Pipelines and pipeline facilities.** Pipelines, pipeline landfalls, and other related methods by which crude oil and gas are transported to crude oil and gas processing and support facilities.

2. **Staging areas.** Facilities, yards, and other areas designated for the purpose of transporting equipment to be used in or personnel employed in the construction or operation of oil drilling facilities.

3. **Storage facilities.** Facilities for the purpose of storing crude oil and gas, including tank farms, or storing chemical, cuttings, drilling muds, produced waters, and other toxic materials used in the production of oil and gas products.

4. **Waste disposal facilities.** Facilities for the purpose of disposing of cuttings, drilling muds, and produced waters generated in the course of drilling oil and gas wells.

C. **Process for approval of on-shore facility.**

1. **Voter approval required.** When a person proposes the development of an on-shore facility relating to the exploration or development of off-shore oil or gas resources, and requests an amendment to the City's certified LCP to facilitate the development, the Council's determination that the proposed amendment is in conformity with the policies of the Coastal Act, and that the certified LCP should be amended to incorporate the development, shall not become effective unless a majority of the electors of the City, in a general or special election, approve the proposed amendment, **unless such amendment is approved by the Coastal Commission pursuant to Section 30515 of the Coastal Act.**

2. **Responsibility for election costs.** The Council is hereby authorized and directed to enact any further ordinances or regulations necessary to give effect to this Subsection, and specifically to require that the person

seeking an amendment to the City's certified LCP shall pay, to the extent allowed by law, all costs associated with the required special or general election.

3. **Intent of referendum.**

a. **Council actions in connection with LCP amendment.** The referendum required by this Subsection is intended for only those legislative acts that may be validly exercised by the Council in connection with the amendment of the City's certified LCP to provide for the development of on-shore facilities to support off-shore oil and gas exploration and development.

b. **Activity regulated by Federal or State law.** Neither this Section nor this Subsection is intended, and shall not be construed, to apply to any activity or program that is regulated by Federal or State law to the extent that the application of this Section or Subsection would conflict with the law or would unduly interfere with the achievement of Federal or State regulatory activities.

c. **Compatibility with Federal and State enactments.** It is the intent of the Council and the people of Fort Bragg that this Section shall be interpreted to be compatible with Federal and State enactments and in furtherance of the public purposes which those enactments express.

CHAPTER 18.96 - PUBLIC HEARINGS

[NOTE: Chapter 18.96 applies to all planning permits required by this Development Code other than Coastal Development Permits. Notice and public hearing procedures for Coastal Development Permits are contained in Section 18.71.040.]

Sections:

18.96.010 - Purpose of Chapter
18.96.020 - Notice of Hearing
18.96.030 - Scheduling of Hearing
18.96.040 - Hearing Procedure
18.96.050 - Recommendation by Commission
18.96.060 - Notice of Decision

18.96.010 - Purpose of Chapter

This Chapter provides procedures for public hearings required by this Development Code **for all permits other than Coastal Development Permits**. When a public hearing is required, advance notice of the hearing shall be given, and the hearing shall be conducted, in compliance with this Chapter.

18.96.020 - Notice of Hearing for Permits Other Than Coastal Development Permits

When this Development Code requires a public hearing before a decision on a permit, or for another matter, the public shall be provided notice of the hearing in compliance with State law (Government Code Sections 65090, 65091, 65094 and 66451.3, and Public Resources Code 21000 et seq.), and as required by this Chapter. **Notice and public hearing procedures for Coastal Development Permits shall comply with the requirements of Section 18.71.040.**

A. **Content of notice.** Notice of a public hearing shall include all of the following information, as applicable.

1. **Hearing information.** The date, time, and place of the hearing and the name of the review authority; a brief description of the City's general procedure concerning the conduct of hearings and decisions (e.g., the public's right to appear and be heard); and the phone number and street address of the Department, where an interested person could call or visit to obtain additional information.

2. **Project information.** The date of filing of the application and the name of the applicant; the City's file number assigned to the application; a general explanation of the matter to be considered; a general description, in text and/or by diagram, of the location of the property that is the subject of the hearing.

3. **Statement on environmental document.** If a proposed Negative Declaration or final Environmental Impact Report has been prepared for the project in compliance with Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring), the hearing notice shall include a statement that the review authority will also consider approval of the proposed Negative Declaration or certification of the final Environmental Impact Report.

4. **Coastal Zone information.** ~~If the proposed development is located within the Coastal Zone,~~ The notice shall also include a statement that the development is within the Coastal Zone.

B. **Method of notice distribution.** Notice of a public hearing required by this Chapter for a planning permit, amendment, or appeal shall be given as follows, as required by State law (Government Code Sections 65090 and 65091).

1. **Publication.** Notice shall be published at least once in a newspaper of general circulation in the City at least 10 days before the scheduled hearing.

2. **Mailing.** Notice shall be mailed or delivered at least 10 days before the scheduled hearing to the following:

   a. **Project site owners.** The owners of the property being considered in the application, or the owners' agent, and the applicant;

   b. **Local agencies.** Each local agency expected to provide schools, water, or other essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected;

   c. **Affected owners.** All owners of real property as shown on the latest equalized assessment roll, within a radius of 300 feet of the exterior boundaries of the parcel that is the subject of the hearing; and any other person whose property might, in the judgement of the Director, be affected by the proposed project;

   d. **Nearby residents.** ~~If the proposed development is within the Coastal Zone,~~ Each dwelling unit within 100 feet of the exterior boundaries of the parcel that is the subject of the hearing;

   e. **Persons requesting notice.** Any person who has filed a written request for notice with the Director and has paid the required fee for the notice; and

   ~~f. **Coastal Commission.** The Coastal Commission, if the proposed development is located within the Coastal Zone.~~

3. **Alternative to mailing.** If the number of property owners to whom notice would be mailed in compliance with Subsection B.2 above is more than 1,000, the Director may choose to provide the alternative notice allowed by State law (Government Code Section 65091(a)(3)), ~~except for a development within the Coastal Zone~~.

4. **Posting.** Notice shall be posted on, or adjacent to the subject parcel in a conspicuous location.

5. **Additional notice.** In addition to the types of notice required above, the Director may provide any additional notice with content or using a distribution method (e.g., posting on the City's web site) as the Director determines is necessary or desirable.

~~18.96.030 - Waiver of Coastal Permit Public Hearing for Minor Development~~ [moved to 18.71.040]

~~This Section provides for the waiver of a public hearing on a Coastal Permit for development that is appealable to the Coastal Commission, in compliance with Public Resources Code Section 30624.9. This Section shall not be used to waive the requirement for a public hearing on any other permit required by this Development Code to have a public hearing.~~

~~A. **Applicability.**~~

~~1. A public hearing that would otherwise be required before City action on a minor development that is appealable to the Coastal Commission may be waived only for a development that:~~

~~a. Is consistent with the certified Local Coastal Program;~~

~~b. Requires no discretionary approval other than Zoning Clearance or Design Review by the Director; and~~

c. Has no adverse effects, either individually or cumulatively, on coastal resources or public access to the shoreline or along the coast.

2. Minor development, as used in this Section, shall include single-family homes and additions to single-family homes, and other development determined by the review authority to meet the above criteria.

B. Criteria for waiver. A public hearing may be waived for minor development if both of the following occur:

1. Notice that a public hearing shall be held upon request by any person is provided by the City to all persons who would otherwise be required to be notified of a public hearing by Section 18.96.020.B (Method of Notice Distribution), as well as any other persons known to be interested in receiving notice; and

2. No request for public hearing is received by the City within 10 days from the date of the City sending the notice.

C. Content of notice. The notice shall contain all information required by Section 18.96.020.A (Content of Notice), and a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal to the Coastal Commission any action taken by the City on a planning permit application.

18.96.040 - Notice of Non-Appealable Development

This Section provides notice requirements for projects that are not appealable to the Coastal Commission in compliance with State law (Public Resources Code Section 30603), and which are not categorically excluded.

A. Public notice required. State law (California Code of Regulations, Title 14, Section 13568b), requires that all development within the Coastal Zone (except that which is categorically excluded) shall receive public notice regardless of whether this Development Code requires a public hearing before the development can be approved or disapproved. Public notice requirements for projects requiring a public hearing are provided in Section 18.96.020.

B. Distribution of notice. For a non-appealable development, at least 10 days before the City's scheduled hearing on the application, the City shall provide notice to:

1. All persons who have requested to be on the mailing list for the particular project or for decisions by the City within the Coastal Zone;

2. All owners of real property as shown on the latest equalized assessment roll located within a radius of 300 feet from the exterior boundaries of the parcel involved in the application, and all residents of property located within a radius of 100 feet from the exterior boundaries of the parcel involved in the application; and

3. The Coastal Commission.

C. Content of notice. The notice shall contain the information required for public notices in compliance with Subsection 18.96.020 A. (Content of notice), above and the following:

1. The date the application will be acted upon by the City's review authority;

2. The City's general procedure concerning the submission of public comments either in writing or orally before the decision is rendered; and

3. A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held before the decision is rendered.

18.96.050 - Scheduling of Hearing

After the completion of any environmental document required by Chapter 18.72 (Environmental Impact Assessment and Mitigation Monitoring) and a Department staff report, a matter requiring a public hearing shall be scheduled on the next available Director, Commission or Council agenda (as applicable) reserved for public hearings, but no sooner than any minimum time period established by State law.

18.96.060 - Hearing Procedure

A. **Time and place of hearing.** A hearing shall be held at the date, time, and place for which notice was given.

B. **Continued hearing.** Any hearing may be continued from time to time without further notice; provided that the chair of the hearing body announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.

C. **Deferral of final decision.** The review authority may announce a tentative decision, and defer their action on a final decision until appropriate findings and/or conditions of approval have been prepared.

18.96.070 - Recommendation by Commission

After a public hearing on a proposed amendment to the General Plan/~~Local Coastal Plan~~, this Development Code, the Zoning Map, or other provision of the certified Local Coastal Program, a development agreement, or a specific plan, the recommendation and findings of the Commission shall be forwarded to the Council. A copy of the recommendation shall be mailed to the applicant at the address shown on the application.

18.96.080 - Decision and Notice

A. **Decision.**

1. The review authority may announce and record their decision on the matter being considered at the conclusion of a scheduled hearing, or defer action and continue the matter to a later meeting agenda in compliance with Section 18.96.060 (Hearing Procedure), above.

2. At the conclusion of a hearing conducted by the Director, the Director may instead refer the matter to the Commission for a determination.

3. The decision of the Council ~~on any matter except a Local Coastal Program amendment (see Section 18.94.080)~~ shall be final.

B. **Notice of decision.**

1. **Provision of notice.** Within 10 days of a final decision on an application for a permit or other approval required by this Development Code, the City shall provide notice of its final action to the applicant and to any person who specifically requested notice of the City's final action.

2. **Contents of notice.** The notice of the final decision shall contain applicable findings, conditions of approval, reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, or general welfare of the City, and the procedure for appeal.

18.96.090 - Effective Date of Decision

The decision of the Director or Commission is final and effective on the 11th day following the date the decision is rendered, unless ~~an~~ **local** appeal is filed in compliance with Chapter 18.92**.030** (**Filing and Processing of Local** Appeals).

CHAPTER 18.98 - ENFORCEMENT AND PENALTIES

[NOTE: Chapter 18.98 is not part of the certified LCP and shall not govern the review and approval of Coastal Development Permits.]

Sections:

18.98.010 - Purpose of Chapter
18.98.020 - Permits and Licenses
18.98.030 - Official Duty to Enforce
18.98.040 - Violations
18.98.050 - Remedies are Cumulative
18.98.060 - Inspection
18.98.070 - Revocation or Modification
18.98.080 - Initial Enforcement Action
18.98.090 - Legal Remedies
18.98.100 - Recovery of Costs
18.98.110 - Additional Permit Processing Fees
18.98.120 - Reinspection Fees

18.98.010 - Purpose of Chapter

This Chapter establishes provisions which are intended to ensure compliance with the requirements of this Development Code and any conditions of planning permit or subdivision approval, to promote the City's planning efforts, and for the protection of the public health, safety, and welfare of the City.

18.98.020 - Permits and Licenses

All departments, officials, and public employees of the City who are assigned the authority or duty to issue certificates, licenses, or permits shall comply with the provisions of this Development Code.

A. **Permits in conflict with Development Code.** Certificates, licenses, or permits for uses or structures that would be in conflict with the provisions of this Development Code shall not be issued.

B. **Permits deemed void.** Any certificate, license, or permit issued in conflict with the provisions of this Development Code shall be deemed void.

18.98.030 - Official Duty to Enforce

A. **Designated City employee.** The Director may:

1. Exercise the authority provided in Section 836.5 of the Penal Code through the City's Code Enforcement Officer(s); and

2. Issue notices of violation, stop work orders, and citations for any violations of this Development Code pertaining to the use of any land, and the addition, alteration, construction, conversion, installation, moving, reconstruction, or use of any structure.

B. **Police Chief, City Attorney.** The Police Chief and City Attorney shall render any and all necessary assistance to the Director for the enforcement of this Development Code.

18.98.040 - Violations

Any use of land or structures operated or maintained contrary to the provisions of this Development Code and any structure constructed or maintained contrary to the provisions of this Development Code are hereby declared to be a public nuisance.

A. **Public nuisance.** Any use or structure which is altered, constructed, converted, demolished, enlarged, established, erected, maintained, moved, or operated, contrary to the provisions of this Development Code or any applicable condition of approval imposed on a permit, is hereby declared to be unlawful and a public nuisance, and shall be subject to the remedies and penalties established by Municipal Code Chapter 6.12 and identified in Municipal Code Section 15.04.120.

B. **Criminal violation.** Any person, whether an agent, principal, or otherwise, violating or causing the violation of any provision of this Development Code or any permit issued in compliance with this Development Code shall be guilty of a misdemeanor or an infraction at the election of the City and/or its prosecuting official, and upon conviction thereof, shall be punishable by the applicable fine established by Municipal Code Chapter 6.12 and identified in Municipal Code Section 15.04.120.

C. **Misdemeanors.** Any offense that would otherwise be an infraction may, at the discretion of the District Attorney or City Attorney, be filed as a misdemeanor if the defendant has been convicted of two or more violations of any provision of this Development Code within the 12 months immediately preceding the commission of the offense, or has been convicted of three or more violations of any provision of this Development Code within the 24 months immediately preceding the offense.

D. **Stop Work Order.**

1. Any construction in violation of this Development Code or any conditions imposed on a permit shall be subject to the issuance of a "Stop Work Order."

2. Any violation of a Stop Work Order shall constitute a misdemeanor and a public nuisance, and shall be subject to the remedies and penalties established by Municipal Code Chapter 6.12 and identified in Municipal Code Section 15.04.120.

18.98.050 - Remedies are Cumulative

A. **Cumulative, not exclusive.** All remedies contained in this Development Code for the handling of violations or enforcement of the provisions of this Development Code shall be cumulative and not exclusive of any other applicable provisions of City, County, or State law.

B. **Other remedies.** Should a person be found guilty and convicted of a misdemeanor or infraction for the violation of any provision of this Development Code, the conviction shall not prevent the City from pursuing any other available remedy to correct the violation(s).

18.98.060 - Inspections

A. **Preapproval inspections.** Every applicant seeking a permit or any other action in compliance with this Development 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 permit or other action in compliance with this Development Code is approved, the owner or applicant shall allow appropriate City officials access to the premises in order to determine continued compliance with the approved permit and/or any conditions of approval imposed on the permit.

18.98.070 - Revocation or Modification

A. **Purpose.** Discretionary permits or approvals issued in compliance with this Development Code may be revoked or modified in compliance with this Section.

B. **Procedures.** This Section provides procedures for securing punitive revocation or modification of previously approved permits or approvals.

C. **Revocations.** The City's action to revoke a permit or approval shall have the effect of terminating the permit and denying the privileges granted by the original approval.

D. **Modifications.** City modification of a permit or approval instead of revocation may include any operational aspect of the project, including buffers, duration of the permit or entitlement, hours of operation, landscaping and maintenance, lighting, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, or any other aspect/condition determined to be reasonable and necessary to ensure that the permit is operated in a manner consistent with the original findings for approval.

E. **Hearings and notice.**

1. The appropriate review authority shall hold a public hearing to revoke or modify a permit or approval granted in compliance with the provisions of this Development Code.

2. Ten days before the public hearing, notice shall be delivered in writing to the applicant for the permit or approval being considered for revocation, and/or owner of the property for which the permit was granted. The only exception to the 10-day notice provision shall be for Limited Term Permits which, because of their short term nature, shall only require a 24-hour notice.

3. Notice shall be deemed delivered two days after being mailed, certified and first class, through the United States Postal Service, postage paid, to the owner as shown on the County's current equalized assessment roll and to the project applicant, if not the owner of the subject property.

F. **Review authority action.**

1. **Permits.** A Use Permit, Minor Use Permit, or other City planning permit or approval (except a Variance, see Subsection F.2) may be revoked or modified by the review authority (e.g., Director, Commission, or Council) that originally approved the permit, if the review authority first makes any one of the following findings:

   a. Circumstances under which the permit or approval was granted have been changed by the applicant to an extent that one or more of the findings that justified the original approval can no longer be made, and the public health, safety, and welfare require the revocation;

   b. The permit or other approval was granted, 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 permit or approval;

   c. One or more of the conditions of the original permit or approval have not been substantially fulfilled or have been violated;

   d. The approved use or structure has ceased to exist or has been suspended for at least 12 months;

   e. An improvement authorized in compliance with the permit is in violation of any applicable code, law, ordinance, regulation, or statute; or

f. The improvement/use allowed by the permit has become detrimental to the public health, safety, or welfare, or the manner of operation constitutes or is creating a nuisance.

2. **Variances.** A Variance or Administrative Variance may be revoked or modified by the review authority which originally approved the Variance or Administrative Variance, if the review authority first makes any one of the following findings, in addition to the findings in Subsection B.1, above:

a. Circumstances under which the original approval was granted have been changed by the applicant to a degree that one or more of the findings contained in the original approval can no longer be made in a positive manner, and the grantee has not substantially exercised the rights granted by the Variance or Administrative Variance; or

b. One or more of the conditions of the Variance or Administrative Variance have not been met, or have been violated, and the grantee has not substantially exercised the rights granted by the Variance or Administrative Variance.

18.98.080 - Initial Enforcement Action

This Section describes the procedures for initiating enforcement action in cases where the Director has determined that real property within the City is being used, maintained, or allowed to exist in violation of the provisions of this Development Code. It is the objective of these provisions to encourage the voluntary cooperation of responsible parties in the prompt correction of violations, so that the other enforcement measures provided by this Chapter may be avoided.

A. **Notice to responsible parties.** The Director shall provide the record owner of the subject site and any person in possession or control of the site with a written Notice of Violation, which shall include the following information:

1. A description of each violation, and citations of applicable Development Code provisions being violated;

2. A time limit for correcting the violation in compliance with Subsection B, below;

3. A statement that the City intends to charge the property owner for all administrative costs associated with the abatement of the violations in compliance with Section 18.98.100 (Recovery of Costs), and/or initiate legal action as described in Section 18.98.090 (Legal Remedies); and

4. A statement that the property owner may request and be provided a meeting with the Director to discuss possible methods and time limits for the correction of the violations.

B. **Time limit for correction.**

1. The Notice of Violation shall state that the violations shall be corrected within 14 days from the date of the notice to avoid further enforcement action by the City, unless the responsible party contacts the Director within that time to arrange for a longer period for correction.

2. The 14-day time limit may be extended by the Director upon a showing of good cause.

3. The Director may also require through the Notice of Violation that the correction occur within less than 14 days if the Director determines that the violation constitutes a hazard to public health or safety.

C. **Use of other enforcement procedures.** The enforcement procedures of Section 18.98.090 (Legal Remedies) may be employed by the Director after or instead of the provisions of this Section where the Director determines that this Section would be ineffective in securing the correction of the violation(s) within a reasonable time.

18.98.090 - Legal Remedies

The City may choose to undertake any one or all of the following legal actions to correct and/or abate any nuisances or violations of this Development Code.

A. **Civil actions.**

1. **Injunction.** The City Attorney, upon order of the Council, may apply to the Superior Court for injunctive relief to terminate a violation of this Development Code.

2. **Abatement proceedings.** Where any person fails to abate a violation after being provided a Notice of Violation in compliance with Section 18.98.080.A and the opportunity to correct or end the violation, the City Attorney, upon order of the Council, shall apply to the Superior Court for an order authorizing the City to undertake actions necessary to abate the violation and require the violator to pay for the cost of the actions.

3. **Nuisance abatement.** The City may pursue any remedies or enforcement action, as provided in Ordinance 840 and Municipal Code Chapter 6.12 for the abatement of a nuisance.

B. **Civil remedies and penalties.**

1. **Civil penalties.** Any person who willfully violates the provisions of this Development Code or any permit issued in compliance with this Development Code, shall be liable for a civil penalty in compliance with the City's Fee Schedule for each day that a violation continues to exist.

2. **Costs and damages.** Any person violating any provisions of this Development Code or any permit issued in compliance with this Development Code, shall be liable to the City for the costs incurred and the damages suffered by the City, its agents, and agencies as a direct result of the violation.

3. **Procedure.** In determining the amount of the civil penalty to impose, the Court should consider all relevant circumstances, including the extent of the harm caused by the conduct constituting a violation, the nature and persistence of the conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the defendant, whether corporate or individual, and any corrective action taken by defendant.

C. **Criminal actions and penalties.** See Section 18.98.040.B (Violations).

18.98.100 - Recovery of Costs

This Section establishes procedures for the recovery of administrative costs, including staff and City Attorney time expended on the enforcement of the provisions of this Development Code in cases where no permit is required in order to correct a violation. The intent of this Section is to recover City administrative costs reasonably related to enforcement.

A. **Record of costs.**

1. The Department shall maintain records of all administrative costs incurred by responsible City departments, associated with the processing of violations and enforcement of this Development Code, and shall recover the costs from the property owner in compliance with this Section.

2. Staff time shall be calculated at an hourly rate as established and revised from time to time by the Council.

B. **Notice.** Upon investigation and a determination that a violation of any of the provisions of this Development Code is found to exist, the Director shall notify the record owner or any person having possession or control of the property by mail, of the existence of the violation(s), the Department's intent to charge the property owner for all administrative

costs associated with enforcement, and of the owner's right to a hearing on any objections they may have. The notice shall be in a form approved by the City Attorney.

C. **Summary of costs and notice.**

1. At the conclusion of the case, the Director shall send a summary of costs associated with enforcement to the owner and/or person having possession or control of the property by certified and first class mail.

2. The summary shall include a notice in a form approved by the City Attorney, advising the responsible party of their right to request a hearing on the charges for City cost recovery within 10 days of the date of the notice, and that if no request for hearing is filed, the responsible party will be liable for the charges.

3. In the event that no request for hearing is timely filed or, after a hearing the Director affirms the validity of the costs, the property owner or person in control shall be liable to the City in the amount stated in the summary or any lesser amount as determined by the Director.

4. The costs shall be recoverable in a civil action in the name of the City, in any court of competent jurisdiction, or by tax assessment, or by a lien on the property, at the City's election.

D. **Attorney's fees.** In any action or administrative proceeding to abate a nuisance, the prevailing party in the action or proceeding shall be entitled to recover reasonable attorney's fees; however, the amount of attorney's fees awarded to a prevailing party shall not exceed the amount of attorney's fees incurred by the City in the action or proceeding. Further, an award of attorney's fees in compliance with this Section shall only be allowed where the City elects, at the initiation of the action or proceeding, to seek recovery of its own attorney's fees.

E. **Request for hearing on costs.** Any property owner, or other person having possession and control of the subject property, who receives a summary of costs shall have the right to a hearing before the Director on their objections to the proposed costs.

1. A request for hearing shall be filed with the Department within 10 days of the service by mail of the Department's summary of costs, on a form provided by the Department.

2. Within 30 days of the filing of the request, and on 10 days written notice to the owner, the Director shall hold a hearing on the owner's objections, and determine their validity.

3. In determining the validity of the costs, the Director shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered include:

   a. Whether the present owner created the violation(s);

   b. Whether there is a present ability to correct the violation(s);

   c. Whether the owner moved promptly to correct the violation(s);

   d. The degree of cooperation provided by the owner; and

   e. Whether reasonable minds can differ as to whether a violation(s) exists.

4. The Director's decision shall be appealable to the Council as provided by Chapter 18.92 (Appeals).

18.98.110 - Additional Permit Processing Fees

Any person who establishes a land use, or alters, demolishes, constructs, enlarges, erects, maintains, or moves any structure without first obtaining any permit required by this Development Code, shall pay the additional permit processing fees established by the City's Fee Schedule for the correction of the violations, before being granted a permit for a use or structure on the site.

18.98.120 - Reinspection Fees

A. Amount and applicability of reinspection fee.

1. A reinspection fee shall be imposed on each person who receives a Notice of Violation, notice and order, or letter of correction of any provision of this Development Code or the Municipal Code, adopted Building Code, or State law.

    a. The fee amount shall be established by the City's Fee Schedule.

    b. The fee may be assessed for each inspection or reinspection conducted when the particular violation for which an inspection or reinspection is scheduled is not fully abated or corrected as directed by, and within the time and manner specified in, the notice or letter.

2. The fee shall not apply to the original inspection to document the violations and shall not apply to the first scheduled compliance inspection made after the issuance of a notice or letter, whether or not the correction has been made.

B. Continuation of the original case.

1. If a notice or letter has been previously issued for the same violation and the property has been in compliance with the provisions of this Development Code or the Municipal Code for less than 180 days, the violation shall be deemed a continuation of the original case, and all inspections or reinspections, including the first inspection for the repeated offense, shall be charged a reinspection fee.

2. This fee is intended to compensate for administrative costs for unnecessary City inspections, and is not a penalty for violating this Development Code or the Municipal Code.

3. Any reinspection fees imposed shall be separate and apart from any fines or penalties imposed for violation of this Development Code or the Municipal Code, or costs incurred by the City for the abatement of a public nuisance.

Article 10
Glossary

ARTICLE 10

Glossary

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CHAPTER 18.100 - DEFINITIONS

Sections:

18.100.010 - Purpose of Chapter
18.100.020 - Definitions of Specialized Terms and Phrases

18.100.010 - Purpose

This Chapter provides definitions of terms and phrases used in this Land Use and Development Code that are technical or specialized, or that may not reflect common usage. If any of the definitions in this Chapter conflict with definitions in other provisions of the Municipal Code, these definitions shall control for the purposes of this Land Use and Development Code. If a word is not defined in this Chapter, or in other provisions of the City of Fort Bragg Municipal Code, the Director shall determine the correct definition.

18.100.020 - Definitions of Specialized Terms and Phrases

As used in this Land Use and Development Code, the following terms and phrases shall have the meaning ascribed to them in this Section, unless the context in which they are used clearly requires otherwise.

A. **Definitions, "A."**

Abut. Having property lines, street lines, or zoning district lines in common.

Accessory Retail or Services. The limited retail sale of various products, or the provision of certain personal services within a health care, hotel, office, or industrial complex, to employees or customers. Examples of these uses include pharmacies, gift shops, and food service establishments within hospitals; convenience stores and food service establishments within hotel, office and industrial complexes; and barber and beauty shops within residential care facilities.

Accessory Structure. A structure that is physically detached from, secondary and incidental to, and commonly associated with a primary structure on the same site. See also "Agricultural Accessory Structure," and "Residential Accessory Uses and Structures."

Accessory Use. A use customarily incidental to, related and clearly subordinate to a primary use on the same parcel, which does not alter the primary use nor serve property other than the parcel where the primary use is located.

Adult Day Care. See "Day Care, Adult."

Adult Oriented Business. The following terms and phrases are defined for the purposes of Chapter 18.40 (Adult Oriented Business Regulations).

1. **Adult Arcade.** Any business establishment or concern containing one or more coin or slug operated or manually or electronically controlled still or motion picture projectors, video machines, projector or similar image-producing devices, that are maintained to display images to an individual or group of individuals when those images are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

2. **Adult Bookstore.** Any establishment which as a regular and substantial course of conduct, displays and/or distributes sexually oriented merchandise, sexually oriented material, books, periodicals, magazines, or other printed materials, or photographs, drawings, sculptures, films, motion pictures, videos, discs, cassettes, slides, tapes, records, or other form of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities and/or specified anatomical areas (See "adult-oriented business" for definition of regular and substantial course of conduct.)

3. **Adult Cabaret.** A nightclub, bar, lounge, restaurant, or similar business establishment or concern which features as a regular and substantial course of conduct, any type of live entertainment, films, motion pictures, computer generated images, videos, discs, slides, or other photographic reproductions, or other oral, written or visual representations which are distinguished or characterized by an emphasis upon matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

4. **Adult Dance Studio.** Any business establishment or concern which provides for members of the public a partner for dance where the partner, or the dance is distinguished or characterized by an emphasis upon matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

5. **Adult Hotel/Motel.** A hotel, motel, or other similar business establishment or concern offering public accommodations for any form of consideration which as a regular and substantial course of conduct provides to its patrons, through the provision of rooms equipped with closed-circuit television, films, computer generated images, motion pictures, videos, discs, slides, other photographic reproductions, or other medium, material which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas and which rents, leases, or lets any room for less than a 12-hour period, or rents, leases, or lets any single room more than once in a 24-hour period.

6. **Adult Modeling Studio.** Any business or premises where there is furnished, provided, or procured, a figure model or models who pose in any manner which is characterized by its emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas where the model(s) is being observed or viewed by any person for the purpose of being sketched, photographed, painted, drawn, sculpted, filmed, or videotaped or otherwise depicted for a fee, compensation, gratuity, or other thing of value as consideration for the right or opportunity to so observe the model or to remain on the premises. "Adult Modeling Studio" does not include any live art class or any studio or classroom which is operated by any public agency, or any private educational institution authorized to issue and confer a diploma or degree in compliance with standards set by the State Board of Education.

7. **Adult-Oriented Business.** Any business establishment or concern which as a regular and substantial course of conduct operates as an adult arcade, adult bookstore, adult cabaret, adult dance studio, adult hotel/motel, adult modeling studio, adult theater; any business establishment or concern which as a regular and substantial course of conduct sells or distributes or offers for sale or distribution sexually oriented merchandise or sexually oriented material; or any other business establishment or concern which as a regular and substantial course of conduct offers to its patrons products, merchandise, services, or entertainment characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas. "Adult-oriented business" does not include those uses or activities, the regulation of which is preempted by State law. For the purposes of this Section, a business establishment or concern has established the provision of products, merchandise, services, or entertainment characterized by an emphasis on matters depicting describing, or relating to specified sexual activities or specified anatomical areas as a regular and substantial course of conduct when one or more of the following conditions exist:

   a. The area devoted to adult merchandise and/or sexually oriented material exceeds more than 20 percent of the total display or floor space area open to the public;

   b. The business establishment or concern presents any type of live entertainment which is characterized by an emphasis on specified sexual activity or specified anatomical areas at least four times in any month;

c. The regular and substantial course of conduct of the business consists of or involves the sale, trade, display, or presentation of services, products, or entertainment which are characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

8. **Adult Theater.** A business establishment or concern which, as a regular and substantial course of conduct, presents live entertainment performances, motion pictures, videos, computer images, slide photographs, or other pictures or visual representations or reproductions which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

9. **Adult-Oriented Business Operator.** A person who supervises, manages, inspects, directs, organizes, controls, or in any other way is responsible for or in charge of the premises of an Adult-Oriented Business or the conduct or activities occurring on the premises thereof. This term shall hereinafter be referred to as "operator."

10. **Applicant.** A person who is required to file an application for a permit under this Chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of an Adult-Oriented Business.

11. **Bar.** Any commercial establishment licensed by the State Department of Alcoholic Beverage Control to serve any alcoholic beverages on the premises.

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

13. **Entertainer.** Any person who dances, models, entertains, and/or performs specified sexual activities or displays specified anatomical areas in an Adult-Oriented Business.

14. **Establishment of an Adult-Oriented Business.** Shall mean and include any of the following:

    a. The opening or commencement of any Adult-Oriented Business as a new business;

    b. The conversion of an existing business, whether or not an Adult-Oriented Business, to any Adult-Oriented Business defined herein;

    c. The addition of any of the Adult-Oriented Businesses defined herein to any other existing Adult-Oriented Business; or

    d. The relocation of any Adult-Oriented Business.

15. **Figure Model.** Any person who, for pecuniary compensation, consideration, hire, or reward, poses in a modeling studio to be observed, sketched, painted, drawn, sculptured, photographed, or otherwise depicted.

16. **Live Art Class.** Any premises on which all of the following occur: there is conducted a program of instruction involving the drawing, photographing, or sculpting of live models exposing specified anatomical areas; instruction is offered in a series of at least two classes; the instruction is offered indoors; an instructor is present in the classroom while any participants are present; and preregistration is required at least 24 hours in advance of participation in the class.

17. **Nudity or a state of nudity.** The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the areola.

18. **Operate an Adult-Oriented Business.** The supervising, managing, inspecting, directing, organizing, controlling, or in any way being responsible for or in charge of the conduct of activities of an Adult-Oriented Business or activities within an Adult-Oriented Business.

19. **Permittee.** The person to whom an Adult-Oriented Business Permit is issued.

20. **Person.** Any individual, partnership, copartnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.

21. **School.** Any child or day care facility, or an institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained in compliance with standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education or an institution of higher education, including a community or junior college, college, or university, but it does not include a vocational institution.

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

23. **Sexual Encounter Center.** Any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family, may congregate, assemble, or associate for the purpose of engaging in specified sexual activities or exposing specified anatomical areas.

24. **Sexually Oriented Material.** Any element of sexually oriented merchandise, or any book, periodical, magazine, photograph, drawing, sculpture, motion picture film, video, disc, computer generated image, or other written, oral or visual representation which, for purposes of sexual arousal, provides depictions which are characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

25. **Sexually Oriented Merchandise.** Sexually oriented implements and paraphernalia, including, but not limited to, dildos, auto sucks, sexually oriented vibrators, edible underwear, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery or electrically operated vaginas or penises, and similar sexually oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity or which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

26. **Specified Anatomical Areas.** Shall mean and include any of the following:

    a. Less than completely and opaquely covered human (1) genitals or pubic region; (2) buttocks; and\or (3) female breast below a point immediately above the top of the areola; or

    b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

    c. Any device, costume, or covering that simulates any of the body parts included in Subparagraphs a. or b., above.

27. **Specified Sexual Activities.** Shall mean and include any of the following, whether performed directly or indirectly through clothing or other covering;

    a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory function in the context of a sexual relationship, any of the following depicted sexually oriented acts or conduct: analingus, bestiality, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerastia; or

    b. Clearly depicted human genitals in a state of sexual stimulation, arousal, or tumescence; or

    c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or

    d. Fondling, or touching of nude human genitals, pubic region, buttocks, or female breast; or

    e. Masochism, erotic, or sexually oriented torture, beating, or the infliction of pain; or

    f. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or human excretion, urination, menstruation, vaginal, or anal irrigation; or

    g. The presence of any person who performs, or appears in a state of nudity or semi nude.

Affordable and Inclusionary Housing Requirements. The following terms and phrases are defined for the purposes of Chapters 18.31 (Density Bonuses and Affordable Housing Incentives), and 18.32 (Inclusionary Housing Requirements).

1. **Addition.** An extension or increase in floor area of existing development project.

2. **Affordable rent.** Monthly rent, including tenant paid utilities allowances and all fees for housing services, that does not exceed 30 percent of 80 percent of area median income for lower-income households. For very low-income households, affordable rents are monthly rents that do not exceed 30 percent of 50 percent of area median income. Where the applicant is requesting a density bonus in compliance with Chapter 18.31 or where the applicant is requesting direct financial assistance requiring a different rent, the term Aaffordable rent@ for lower income households, shall mean monthly rents that do not exceed 30 percent of 60 percent of area median income in compliance with State law (Health and Safety Code Section 50079.5). Affordable rent shall be based on presumed occupancy levels of one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter.

3. **Affordable sales price.** The maximum purchase price that will be affordable to the specified target income household. A maximum purchase price shall be considered affordable only if each monthly owner-occupied housing payment is equal to or less than one-twelfth of 30 percent of income for the specified target income household. In setting the affordable sales price, realistic assumptions regarding down payment, mortgage interest rate, and term will be established so that targeted income families can reasonably qualify. Affordable sales price shall be based upon presumed occupancy levels of one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter.

4. **Affordable units.** Those dwelling units that are required to be rented at affordable rents or purchased at an affordable sales price to specified households.

5. **Annual household income.** The combined gross income for all adult persons living in a dwelling unit as calculated for the purpose of the Section 8 program under the United States Housing Act of 1937, as amended, or its successor.

6. **Construction costs.** The estimated cost per square foot of construction, as established by the Building Official for use in setting regulatory fees and Building Permits, multiplied by the total square footage, to be constructed, except for any floor area devoted to a garage.

7. **Density Bonus**. As defined by State law (Government Code Section 65915 et seq.), an increase of at least ~~25~~ **20** percent, **and not to exceed a maximum of 35 percent**, over the maximum density otherwise allowed by the applicable zoning district **under the certified LCP**, that is granted to the owner/developer of a housing project who agrees to construct a prescribed percentage of dwelling units that are affordable to households of very low and/or low income. When determining the number of dwelling units that shall be affordable, the units authorized by the density bonus shall not be included in the calculation.

8. **Developer.** A corporation, firm, or person constructing, placing, or creating new residential development directly or through the services of an agent, employee, independent contractor, or otherwise.

9. **Essential Public Service Employees.** These employees include City of Fort Bragg sworn police officers, Fort Bragg Fire Protection Authority fire fighters, Fort Bragg Unified School District teachers, and Mendocino Coast District Hospital health care workers.

10. **Gross floor area.** The sum of the gross horizontal floor areas of a structure measured from the exterior face of exterior walls, or from the center line of a wall separating two structures. In cases where no walls exist, the gross horizontal floor area shall be that area covered by the roof excluding two feet on each side of the structure for a standard roof projection.

11. **Inclusionary Housing In Lieu Fee.** The fee established in compliance with Section 18.32.070 for residential development projects.

12. **Inclusionary Housing Trust Fund.** The City's Inclusionary Housing Trust Fund established in compliance with Section 18.32.040.

13. **Low-income household.** A household with income of up to 80 percent of median income.

14. **Market-rate unit.** A dwelling unit in a residential project that is not an affordable unit.

15. **Median income.** The median income, adjusted for family size, applicable to the County as published annually in compliance with Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the United States Department of Housing and Urban Development.

16. **Moderate-income household.** A household with an income of up to 120 percent of median income.

17. **Monthly owner-occupied housing payment.** That sum equal to the principal, interest, property taxes, homeowner's insurance, and homeowner's association dues paid on an annual basis divided by 12.

18. **Residential development project.** A project for the construction or placement of any dwelling unit in a permanent location, or the subdivision of land that is planned, designed, or used for one or more single-family dwellings, and/or multi-family dwellings or mobile home parks.

19. **Very low-income household.** A household with an income of up to 50 percent of median income.

Agent. A person authorized in writing by the property owner to represent and act for a property owner in contacts with City employees, committees, Commissions, and the Council, regarding matters regulated by this Land Use and Development Code.

Agricultural Accessory Structure. A structure for sheltering animals, or agricultural equipment, hay, feed, etc. Examples of these structures include barns, non-commercial greenhouses, coops, corrals, and pens. May also include the storage of petroleum products for an on-site agricultural use allowed by the applicable zoning district. Does not include pasture fencing, which requires no City approval when in compliance with Section 18.40.050 (Fences, Walls, and Screening).

Agricultural Product Processing. The processing of harvested crops to prepare them for on-site marketing or processing and packaging elsewhere. Examples of this land use include the following:

alfalfa cubing
corn shelling
cotton ginning
custom grist mills
custom milling of flour, feed and grain
dairies (but not feedlots, see instead "Livestock Operations, Sales Yards, Feedlots, Stockyards")
drying of corn, rice, hay, fruits and vegetables
grain cleaning and custom grinding
hay baling and cubing
pre-cooling and packaging of fresh or farm-dried fruits and vegetables
sorting, grading and packing of fruits and vegetables
tree nut hulling and shelling
wineries

Alcoholic Beverage Sales. The retail sale of beer, wine, and/or distilled spirits for on-premise or off-premise consumption.

Alley. A public or private roadway that provides vehicle access to the rear or side of parcels having other public street frontage, that is not intended for general traffic circulation.

Allowed Use. A use of land identified by Article 2 (Zoning Districts and Allowable Land Uses) as a permitted or conditional use that may be established with planning permit and, where applicable, Design Review and/or Building Permit approval, subject to compliance with all applicable provisions of this Land Use and Development Code.

Alteration. Any construction or physical change in the internal arrangement of rooms or the supporting members of a structure, or a change in the external appearance of any structure, not including painting.

Ambulance, Taxi, and Specialized Transportation Dispatch Facility. A base facility where ambulances, taxis, limousines, armored cars, tow trucks, and similar vehicles for specialized transportation are stored, and from which they are dispatched, and/or where ambulance vehicles and crews not based at a hospital or fire department stand by for emergency calls. Does not include storage facilities for towed vehicles, which is classified under "Vehicle Storage."

Animal Keeping. See Section 18.42.040 (Animal Keeping).

Apartment. See "Multi-Family Housing."

Appealable Area. The areas described by Public Resources Code Sections 30519(b) and 30603(a)(1) and (a)(2), within which a City decision to approve a development may be appealed to the California Coastal Commission.

Applicant. Any person who is filing an application requesting an action who is:

1. The owner or lessee of property;

2. A party who has contracted to purchase property contingent upon that party's ability to acquire the necessary approvals required for that action in compliance with this Land Use and Development Code, and who presents written authorization from the property owner to file an application with the City; or

3. The agent of either of the above who presents written authorization from the property owner to file an application with the City.

Approval. Includes both approval and approval with conditions.

Architectural Feature. An exterior building feature including roof, windows, doors, porches, etc.

Arterial Street. An arterial street as identified by the Circulation Element of the General Plan.

Artisan/Craft Product Manufacturing. Establishments manufacturing and/or assembling small products primarily by hand, including jewelry, pottery and other ceramics, as well as small glass and metal art and craft products.

Artisan Shop. A retail store selling art glass, ceramics, jewelry, paintings, sculpture, and other handcrafted items, where the store includes an area for the crafting of the items being sold.

Assessed Value. The value of a structure as shown in the records of the County Assessor.

Attic. The area located between the uppermost plate and the roof or ridge of a structure.

Auto and Vehicle Sales/Rental. A retail or wholesale establishment selling and/or renting automobiles, trucks and vans, trailers, motorcycles, and bicycles (bicycle sales are also included under "General Retail"). Vehicles for sale may be displayed outdoors or indoors, as authorized by the required Use Permit.

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"); mobile home, recreational vehicle, or watercraft sales (see "Mobile Home, RV and Boat Sales"); tire recapping establishments (see "Vehicle Services"); businesses dealing exclusively in used parts, (see "Recycling - Scrap and Dismantling Yards"); or "Service Stations," which are separately defined.

Auto Parts Sales. Stores that sell new automobile parts, tires, and accessories. Establishments that provide installation services are instead included under "Vehicle Services - Repair and Maintenance - Minor." Does not include tire recapping establishments, which are found under "Vehicle Services" or businesses dealing exclusively in used parts, which are included under "Recycling - Scrap and Dismantling Yards."

Auto Repair. See "Vehicle Services."

Automated Teller Machine (ATM). Computerized, self-service machines used by banking customers for financial transactions, including deposits, withdrawals and fund transfers, without face-to-face contact with financial institution personnel. The machines may be located at or within banks, or in other locations, as allowed by Article 2. Does not include drive-up ATMs; see "Drive-Through Services."

B. Definitions, "B."

Bank, Financial Services. Financial institutions including:

banks and trust companies
credit agencies
holding (but not primarily operating) companies
lending and thrift institutions
other investment companies
securities/commodity contract brokers and dealers
security and commodity exchanges
vehicle finance (equity) leasing agencies

See also, "Automated Teller Machine." Does not include check cashing stores, which are instead defined under "Personal Services - Restricted."

Bar/Tavern. A business where alcoholic beverages are sold for on-site consumption, which are not 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 include dancing as an incidental use, if authorized by the Use Permit approval for the facility. Does not include adult entertainment businesses, which are separately defined.

Bed and Breakfast Inn (B&B). See "Lodging."

Best Management Practices (BMPs). Activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly to the municipal storm drain system and waters of the United States. Best Management Practices include: treatment facilities to remove pollutants from storm water; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-storm water, waste disposal, and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures and such other provisions as the City determines appropriate for the control of pollutants.

Big Box Retail. A large formula retail establishment that is generally located on an arterial or collector roadway, requires a site of one acre or larger, and generally contains one or several businesses or structures totaling 30,000 or more square feet. They may operate as stand-alone facilities, but also in a type of shopping center called a "power center" or "value mall" having common characteristics including large warehouse-sized buildings and a reliance on auto-borne traffic. Warehouse retail stores that emphasizes the packaging and sale of products in large quantities or volumes, some at discounted prices, where products are typically displayed in their original shipping containers. Patrons may be required to pay membership fees.

Broadcasting Studio. Commercial and public communications use including radio and television broadcasting and receiving stations and studios, with facilities entirely within buildings. Does not include transmission and receiving apparatus, including antennas and towers, which are instead defined under "Telecommunications Facilities".

Building and Landscape Materials Sales. A retail establishment selling hardware, lumber and other large building materials, plant materials, and other landscaping materials. Includes paint, wallpaper, glass, fixtures. Includes all these stores selling to the general public, even if contractor sales account for a major proportion of total sales. Establishments primarily selling electrical, plumbing, heating, and air conditioning equipment and supplies are classified in "Wholesaling and Distribution."

Building Frontage. A building wall adjacent to a parcel boundary that abuts a public right-of-way. A primary building frontage provides the main pedestrian entrance to the building. A secondary building frontage abuts a side street, rear entrance, or has an entrance from other than a public right-of-way. See Figure 10-1.

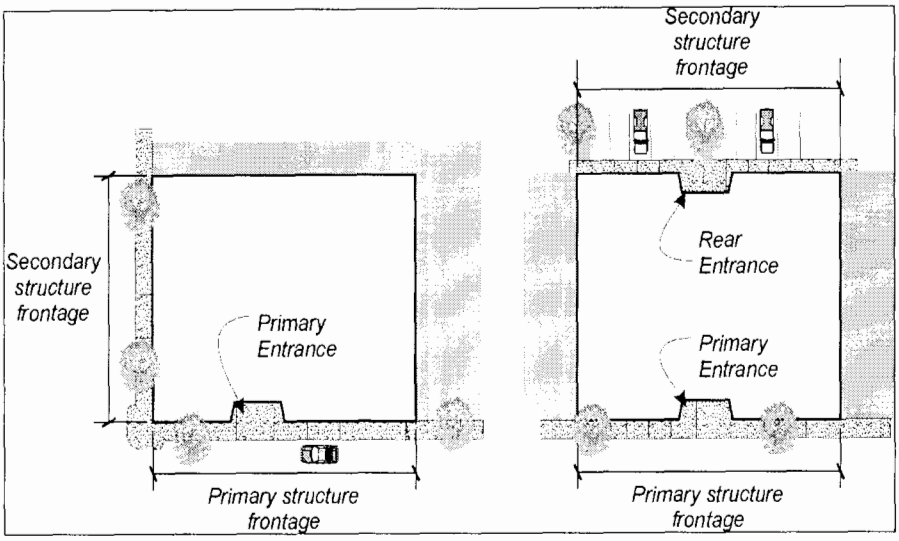

Figure 10-1 – Building Frontage

Building Height. See Section 18.30.060 (Height Limits and Exceptions).

Building Official. The Building Official of the City of Fort Bragg, or designee of the Building Official.

Business Support Service. An establishment within a building that provides services to other businesses. Examples of these services include:

blueprinting
computer-related services (rental, repair)
copying and quick printing services
courier, messenger, and delivery services, small scale, without fleet vehicle storage (see also "Freight Terminals")
film processing and photofinishing (retail)
outdoor advertising services
mailing and mail box services
protective services (other than office related)
security systems services

C. Definitions, "C."

Cabinet Shop. See "Furniture and Fixtures Manufacturing, Cabinet Shops."

California Environmental Quality Act (CEQA). State law (California Public Resources Code Sections 21000 et seq.) requiring public agencies to document and consider the environmental effects of a proposed action, prior to allowing the action to occur.

California Public Utilities Commission (CPUC). The governmental agency which regulates the terms and conditions of public utilities in the State.

Caretaker Quarters. A permanent residence that is secondary or accessory to the primary use of the property, and used for housing a caretaker employed on the site of any non-residential use where needed for security purposes or to provide 24-hour care or monitoring of people, plants, animals, equipment, or other conditions on the site.

Carriage House. See "Second Unit or Carriage House."

Catering Service. A business that prepares food for consumption on the premises of a client.

Change of Use. The replacement of an existing use on a lot or parcel, or any portion thereof, by a new use, or a change in the nature of an existing use; but does not include a change of ownership, tenancy, or management associated with a use for which the previous nature of the use will remain substantially unchanged.

Child Day Care Center. See "Day Care."

City. The City of Fort Bragg, State of California, referred to in this Land Use and Development Code as the "City." For the purposes of this Land Use Code, "City" includes the Fort Bragg City Council, Planning Commission, advisory agencies, appeals boards, agents, employees, and officers of the City of Fort Bragg.

City Council. The Fort Bragg City Council, referred to in this Land Use and Development Code as the "Council."

Clean Water Act. The Federal Water Pollution Control Act (3-3 U.S.C. ' 1251 et seq.), and any amendments to the Act.

Coastal Act. The California Coastal Act of 1976, California Public Resources Code Sections 30000 et seq., as amended.

Coastal Commission. The California Coastal Commission as established by the California Coastal Act of 1976.

Coastal Dependent Use. Any development or use that requires a site on, or adjacent to the ocean to function.

Coastal Development Permit. A discretionary land use permit that may be granted in compliance with Section ~~18.72.060~~ **18.71.040** (Coastal Development Permit) **,required pursuant to this Development Code and subdivision (a) of the Coastal Act Section 30600.** which authorizes **development in the coastal zone** ~~a specific use of land on a specific site~~, subject to compliance with any conditions of approval imposed on the permit.

Coastal Zone. The **land and water area boundaries** ~~portions of the California Coastal Zone~~ established by the California Coastal Act of 1976, and as defined by Section 30103 of the Public Resources Code~~, within the City of Fort Bragg.~~

Commercial Recreation Facility - Indoor. Establishments providing indoor amusement and entertainment services for a fee or admission charge, including:

bowling alleys
card rooms
coin-operated amusement arcades
dance halls, clubs and ballrooms
electronic game arcades (video games, pinball, etc.)
ice skating and roller skating
pool and billiard rooms as primary uses

This use does not include adult oriented businesses, which are separately defined. Four or more electronic games or coin-operated amusements in any establishment, or a premises where 50 percent or more of the floor area is occupied by amusement devices, are considered an electronic game arcade as described above; three or fewer machines are not considered a land use separate from the primary use of the site.

Commercial Recreation Facility - Outdoor. A facility for various outdoor recreational activities, where a fee is charged for use. Examples include:

amusement and theme parks
go-cart tracks
golf driving ranges
miniature golf courses
water slides

May also include commercial facilities customarily associated with the above outdoor commercial recreational uses, including bars and restaurants, video game arcades, etc.

Community Center. A multi-purpose meeting and recreational facility typically consisting of one or more meeting or multi-purpose rooms, kitchen and/or outdoor barbecue facilities, that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc.

Community Garden. A site for growing plants that is shared and maintained by community residents.

Condition of Project Approval. Any performance standard, prescribed change in a project, environmental mitigation measure, or other City-imposed requirement to alter or modify the project in any manner from the description in the application originally submitted for City approval.

Condition, Quantifiable. A condition placed upon a project that requires the permit holder or project proponent to meet specific measurable standards. The measurement of a quantifiable condition shall be intended to be a finding of conforming to a measurable standard.

Condition, Time Specific. A condition placed upon a project that requires the satisfactory completion or undertaking of an approval requirement before a specific date or phase of the project development.

Condominium. As defined by Civil Code Section 1715, a development where undivided interest in common in a portion of real property is coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map or parcel map.

Conference/Convention Facility. One or more structures accommodating multiple assembly, meeting, and/or exhibit rooms, and related support facilities (e.g., kitchens, offices, etc.).

Construction Activity. In the context of Chapter 18.64 (Urban Runoff Pollution Control), "construction activity" means activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of five acres or more. These activities include clearing and grubbing, grading, excavating, and demolition.

Construction Contractor Base. Office, and indoor and/or outdoor storage facilities operated by, or on behalf of a contractor licensed by the State of California for storage of large equipment, vehicles, and/or other materials commonly used in the individual contractor's type of business; storage of scrap materials used for repair and maintenance of contractor's own equipment; and buildings or structures for uses such as repair facilities. Includes building contractors, landscape contractors, sign contractors, etc.

Construction and Heavy Equipment Sales and Rental. Retail establishments selling or renting construction, farm, or other heavy equipment. Examples include cranes, earth moving equipment, tractors, combines, heavy trucks, etc.

Convenience Store. A neighborhood serving retail store of 3,500 square feet or less in gross floor area, which carries a range of merchandise oriented to daily convenience shopping needs.

Conveyance, or Convey. Any transfer, sale, lease, rent, or disposition of or act to transfer, sale, lease, rent, or dispose of any affordable unit and include, but are not limited to, transfer of title or any interest therein by nonjudicial or judicial foreclosure and sale; but does not include transfer by gift, devise, or inheritance to the unit owner's spouse or issue, taking of title by surviving joint tenant, transfer of title to a spouse as part of divorce or dissolution proceedings, or acquisition of title or interest therein in conjunction with marriage.

County. The County of Mendocino, State of California.

Crop Production, Horticulture, Orchard, Vineyard. Commercial agricultural production field and orchard uses, including the production of the following, primarily in the soil on the site and not in containers, other than for initial propagation prior to planting in the soil on the site:

field crops	ornamental crops
flowers and seeds	tree nuts
fruits	trees and sod
grains	vegetables
melons	wine and table grapes

Also includes associated crop preparation services and harvesting activities, such as mechanical soil preparation, irrigation system construction, spraying, crop processing and retail sales in the field, not including sales sheds, which are instead defined under "Produce Stand." Does not include greenhouses which are instead defined under "Plant Nursery," and "Residential Accessory Use or Structure," or containerized crop production, which is instead defined under "Plant Nursery." Does not include non-commercial home gardening, which is allowed as an accessory use in all zoning districts without City approval.

D. Definitions, "D."

Day Care, Adult. A state-licensed day care facility providing care and supervision more than six adults for periods of less than 24 hours for any client..

Day Care, Child. Facilities that provide non-medical care and supervision of minor children for periods of less than 24 hours. These facilities include the following, all of which are required to be licensed by the California State Department of Social Services.

1. **Day Care Center.** Commercial or non-profit child day care facilities designed and approved to accommodate 15 or more children. Includes infant centers, preschools, sick-child centers, and school-age day care facilities. These may be operated in conjunction with a school or church facility, or as an independent land use.

2. **Family Day Care Home.** As defined by Health and Safety Code Section 1596.78, a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home.

3. **Large Family Day Care Home.** As defined by Health and Safety Code Section 1596.78, a day care facility in a single-family dwelling where an occupant of the residence provides family day care for seven to 14 children, inclusive, including children under the age of 10 years who reside in the home.

4. **Small Family Day Care Home.** As defined by Health and Safety Code Section 1596.78, a day care facility in a single-family residence where an occupant of the residence provides family day care for eight or fewer children, including children under the age of 10 years who reside in the home.

Density. The number of housing units per acre, unless otherwise stated, for residential uses.

Density Bonus. See "Affordable and Inclusionary Housing Requirements."

Department. The City of Fort Bragg Community Development Department, referred to in this Land Use and Development Code as the "Department."

Detached Structure. A detached structure is any building that does not share a physical wall with the primary structure. Buildings that are "attached" to the primary structure via a breezeway, covered patio, or other hall are detached structure. [*CITY REQUESTED MOD*]

Development. On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the subdivision map act (commencing with Government Code Section 66410), and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Public Resources Code Section 4511).

Development Agreement. A contract between the City and an applicant for a development project, in compliance with the Municipal Code, and Government Code Sections 65864 et seq. A development agreement is intended to provide assurance to the applicant that an approved project may proceed subject to the policies, rules, regulations, and conditions of approval applicable to the project at the time of approval, regardless of any changes to City policies, rules, and regulations after project approval. In return, the City may be assured that the applicant will provide infrastructure and/or pay fees required by a new project.

Diameter of a Tree. Trunk diameter measured at 4.5 feet above the ground (also known as "Diameter at Breast Height," or "DBH).

Director. The City of Fort Bragg Community Development Director, or designee of the Director.

Discretionary land use approval. Any decision of the City to approve the request of an applicant for a General Plan amendment, Zoning Map amendment, Tentative Map, Vesting Tentative Map, Final Map, Final Map modification or amendment, boundary line adjustment, Certificate of Compliance, Conditional Certificate of Compliance, Coastal Development Permit, development agreement, Minor Use Permit, Use Permit, permit extension of time or modification, Variance, or Minor Variance, reclamation plan, time extension, administrative permit pertaining to a land use approval or any accompanying California Environmental Quality Act (CEQA) determination pertaining to any type of approval referred to in this definition.

Discretionary permit. Any permit or license issued by the City for a project that requires the exercise of judgment or deliberation wherein the City decides to either approve or disapprove a particular activity in compliance with applicable laws, including Minor Use Permits, Use Permits, Minor Variances, Variances, Design Review Approval, and Subdivision Maps.

District. See "Zoning District."

Drive-Through Retail or Service. A facility where food or other products may be purchased, or where services may be obtained by motorists without leaving their vehicles. Examples of drive-through sales facilities include fast-food restaurants, drive-through coffee, dairy product, photo stores, pharmacies, etc. Examples of drive-through service facilities include drive-through bank teller windows, dry cleaners, etc., but do not include automated teller machines (ATMs), gas stations or other vehicle services, which are separately defined.

Duplex. See "Multi-Family Housing."

Dwelling, Dwelling Unit, or Housing 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.

E. Definitions, "E."

Easement. A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

Emergency. A sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.

Emergency/Transitional Shelter. A facility for the temporary shelter and feeding of indigents or disaster victims, operated by a public or non-profit agency.

Engineering Geologist. A registered geologist certified as an Engineering Geologist by the State of California.

Engineering Geology. The application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

Environmental Impact Report (EIR). An informational document used to assess the physical characteristics of an area and to determine what effects will result if the area is altered by a proposed action, prepared in compliance with the California Environmental Quality Act (CEQA).

Environmentally Sensitive Habitat Area (ESHA). Any area in which plant or animal life or their habitats are rare or especially valuable because of their special nature or role in an ecosystem, and which could be easily disturbed or degraded by human activities and development. In Fort Bragg, ESHAs include, but are not limited to: wetlands, riparian areas, habitats of rare and endangered species, rocky intertidal areas, anadromous fish streams, rookeries, and marine mammal haul-out areas.

Equestrian Facility. A commercial facility for horses, donkeys, and/or mules, examples of which include horse ranches, boarding stables, riding schools and academies, horse exhibition facilities (for shows or other competitive events), and barns, stables, corrals and paddocks accessory and incidental to these uses. Does not include the simple pasturing of horses, donkeys, and/or mules, which is instead included in "Animal Keeping" as regulated by Section 18.42.040.

Equipment Rental. A service establishment that may offer a wide variety of household and business equipment, furniture, and materials for rental. Does not include construction equipment rental, which is separately defined.

F. Definitions, "F."

Fence. A constructed, un-roofed barrier of wood, metal, masonry, or other material as allowed by this Land Use and Development Code, that is intended to enclose, separate, define, secure, protect, and/or screen one or more areas of a site. Includes masonry walls.

1. **Open Wire Fence.** A fence through which fenced areas remain visible because of the wire mesh used for the fence. Includes chain link fencing, deer fencing, etc.

2. **Safety Fence.** A fence constructed to prevent access to a hazard or hazardous area.

3. **Razor or Concertina Wire.** Sharp fencing materials that are designed to lacerate animals or unauthorized persons attempting to climb or cross the fence through other than a gate.

Farm Supply and Feed Store. A retail business selling supplies for use in soil preparation and maintenance, the planting and harvesting of crops, the keeping and raising of farm animals, and other operations and processes pertaining to farming and ranching. Does not include the sale, rental, or repair of farm machinery and equipment, which is instead included in the definition of "Construction and Heavy Equipment Sales and Rental."

Farmers Market. The temporary use of a site for the outdoor sales of food and farm produce items from vehicles, in compliance with California Food and Agriculture Code Sections 1392 et seq.

Feasible. Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

Fish Processing. An establishment that prepares raw fish for wholesale distribution and/or retail sale.

Floor Area Ratio (FAR). The Floor Area Ratio (FAR) is the ratio of floor area to total lot area. FAR restrictions are used to limit the maximum floor area allowed on a site (including all structures on the site). The maximum floor area of all structures (measured from exterior wall to exterior wall) permitted on a site (excluding carports) shall be determined by multiplying the Floor Area Ratio (FAR) by the total net area of the site (FAR x Net Site Area ' Maximum Allowable Floor Area). See Figure 10-2.

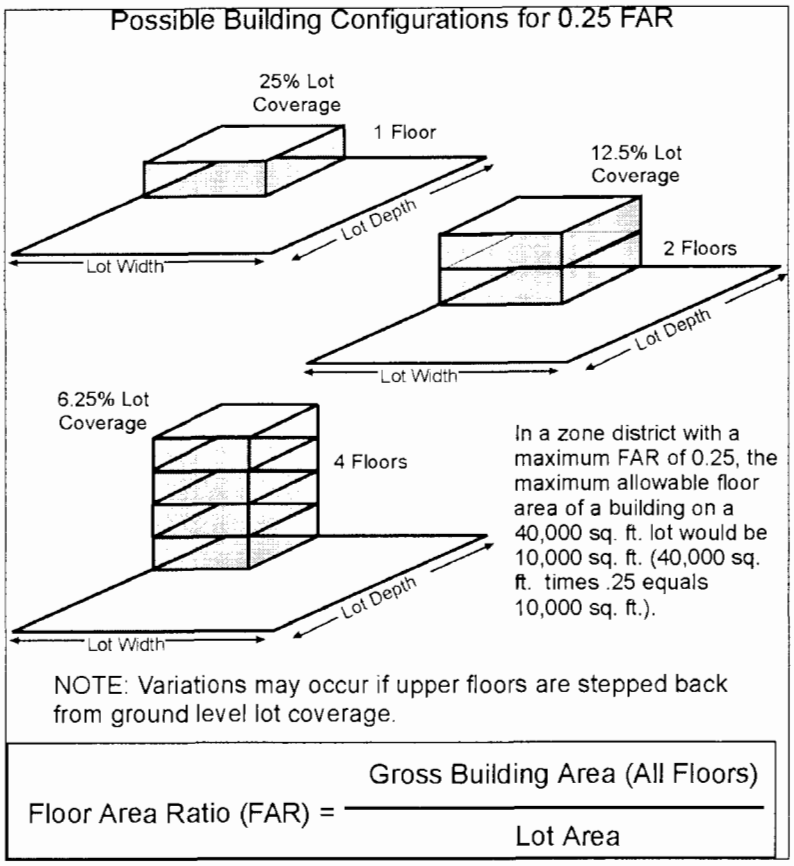

Figure 10-2 – Floor Area Ratio

Formula Business. A business that is required by contractual or other arrangement to maintain standardized uses, services, decor, uniforms, architecture, signs, or other similar features. Formula businesses include retail sales and services and visitor accommodations.

Freight Terminal. A transportation facility furnishing services incidental to air, motor freight, and rail transportation. Examples of these facilities include:

freight forwarding services
freight terminal facilities
home and business moving and storage services
joint terminal and service facilities
overnight mail processing and delivery dispatch facilities
packing, crating, inspection and weighing services
postal service bulk mailing distribution centers

Fuel Dealer. A retail trade establishment that sells fuel oil, butane, propane and liquefied petroleum gas (LPG), bottled or in bulk, to consumers.

Furniture, Furnishings and Appliance Store. A store that primarily sells the following products and related services, that may also provide incidental repair services:

computers and computer equipment
draperies
floor coverings
furniture
glass and chinaware
home appliances
home furnishings
home sound systems
interior decorating materials and services
large musical instruments
lawn furniture
office furniture
other household electrical and gas appliances
outdoor furniture
pool tables
refrigerators
spas, hot tubs, swimming pools
stoves
televisions

G. Definitions, "G."

Garage, or Carport. Parking space and shelter for automobiles or other vehicles, where the size of the parking space complies with the provisions of Chapter 18.36 (Parking and Loading).

1. A garage is an attached or detached accessory structure with a door, enclosed on at least three sides.

2. 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 this Land Use and Development Code for "covered" parking spaces.

General Plan. The City of Fort Bragg General Plan, including all its elements and all amendments thereto, as adopted by the City Council in compliance with Government Code Section 65300 et seq., and referred to in this Land Use and Development Code as the "General Plan."

General Retail. Stores and shops selling many lines of merchandise. Examples of these stores and lines of merchandise include:

antique stores
art galleries, retail
art supplies, including picture framing services
bicycles
books, magazines, and newspapers
cameras and photographic supplies
clothing, shoes, and accessories
collectibles (cards, coins, comics, stamps, etc.)
department stores
dry goods
fabrics and sewing supplies
florists and houseplant stores (indoor sales onlyCoutdoor sales are "Building and Landscape Materials Sales")
hardware (not including building or landscape materials)
hobby materials
jewelry
luggage and leather goods
musical instruments, parts and accessories
orthopedic supplies
records, CDs
religious goods
small wares
specialty shops
sporting goods and equipment
stationery
toys and games
variety stores
videos, DVDs, including rental

Does not include adult oriented businesses, which are separately defined.

Grade. The ground surface immediately adjacent to the exterior base of a structure, typically used as the basis for measurement of the height of the structure.

Grading. The following terms and phrases are defined for the purposes of Chapters 18.60, and 18.62, regarding grading, drainage, erosion and sediment control.

1. **As-Graded.** The extent of ground surface conditions on completion of grading.

2. **Borrow.** Earth material acquired form an off-site location for use in grading on a site.

3. **Compaction.** The increase in the density of soil or rock fill by mechanical means.

4. **Depth of Cut.** The vertical dimension from the exposed cut surface to the original ground surface at the cut's deepest point, generally at the hinge point. Where the construction slope is steeper than 3:1, the depth shall be measured from the top of the cut.

5. **Depth of Fill.** The vertical dimension from the exposed fill surface to the original ground surface at the fill's deepest point, generally at the hinge point. Where the construction slope is steeper than 3:1, the depth shall be measured from the toe of the slope.
6. **Earth Material.** Any rock, natural soil or fill and/or any combination thereof.
7. **Embankment.** A fill consisting of a deposit of soil, rock or other materials mechanically placed, including the conditions resulting therefrom.
8. **Erosion.** The wearing away of the ground surface as a result of the movement of wind, water, or ice.
9. **Excavation.** The mechanical removal of earth material.
10. **Grading.** Any excavating or filling or combination thereof.
11. **Key.** A designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed slope.
12. **Landform Grading.** A contour grading method that creates artificial slopes with curves and varying slope ratios in the horizontal and vertical planes designed to simulate the appearance of surrounding natural terrain.

Groceries, Specialty Foods. 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 store. Includes retail bakeries, where any on-site baking is only for on-site sales.

Guest House. A detached structure accessory to a single-family dwelling, accommodating living/sleeping quarters, but without kitchen or cooking facilities.

H. Definitions, "H."

Habitable Space. Space within a dwelling unit for living, sleeping, eating, or cooking.

Harbor and Marina Facilities. Facilities providing a full range of services related to: commercial and recreational fishing; fisheries and hatcheries; seafood processing; ship and boat building, maintenance and repair; marine hardware sales and service; petroleum storage and handling; boat storage and miscellaneous storage activities; boat charter operations, etc.

Hazardous Material. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed (California Health and Safety Code § 25117).

Health/Fitness Facility. A fitness center, gymnasium, health and athletic club, which may include any of the following: sauna, spa or hot tub facilities; indoor tennis, handball, racquetball, archery and shooting ranges and other indoor sports activities. Does not include adult entertainment businesses.

Height. See Section 18.30.060 (Height Limits and Exceptions).

Home Occupation. The conduct of a business within a dwelling unit or residential site, employing only the occupants of the dwelling, with the business activity being subordinate to the residential use of the property.

Hotel or Motel. See "Lodging."

Household Pets. The keeping/raising of birds, cats, dogs, or other common household pets, as determined by the Director, accessory to a residential use.

I. Definitions, "I."

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 18.64.020 (Urban Runoff Water Quality and Discharge Management).

Illicit Connection. An illicit connection is either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted, or approved by a government agency; or

2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the City.

Incidental Agriculture. Non-commercial crop production, horticulture, and orchard uses; and private, non-commercial stables and corrals.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

Industrial Research and Development (R&D). A facility for scientific research, and the design, development and testing of electrical, electronic, magnetic, optical and computer and telecommunications components in advance of product manufacturing, and the assembly of related products from parts produced off-site, where the manufacturing activity is secondary to the research and development activities, and where no more than 30 percent of the total floor

area is office. Includes pharmaceutical, chemical and biotechnology research and development. Does not include soils and other materials testing laboratories (see "Laboratory"), or medical diagnostic laboratories (see "Medical Services - Laboratory").

Intensification of Use. A change in the use **or increase in size (area)** of a structure or site, ~~where the new use is required by this Land Use and Development Code to have more off-street parking spaces than the former use~~; or a change in the operating characteristics of a use (for example, hours of operation), which generates more activity on the site.

J. **Definitions, "J."** No specialized terms beginning with the letter "J" are defined at this time.

K. **Definitions, "K."**

Kennel, Animal Boarding. A commercial facility for the grooming, keeping, boarding or maintaining of five or more dogs (four months of age or older), or five or more cats except for dogs or cats for sale in pet shops, or patients in animal hospitals. A business that provides grooming services with no boarding facilities is classified under "Personal Services." See also "Veterinary Clinic, Animal Hospital."

Kitchen. A room or space within a building used or intended to be used for the cooking or preparation of food, which includes any of the following: refrigerator, stove, oven, range top, dishwasher, kitchen sink.

L. Definitions, "L."

Laboratory - Analytical, Testing. A facility for testing and analysis, and/or research. Examples of this use include soils and materials testing labs, and forensic labs. See also "Industrial Research and Development." Does not include diagnostic medical laboratories, which are classified under "Medical Services - Laboratory."

Land Use. The purpose for which land or a structure is designed, arranged, intended, occupied, or maintained.

Land Use and Development Code. The City of Fort Bragg Land Use and Development Code, Title 18 of the Fort Bragg Municipal Code, referred to herein as "this Land Use and Development Code."

Landscaping Standards. The following terms are defined for the purposes of Chapter 18.34 (Landscaping Standards).

1. **Drought resistant cool season grass.** Cool season grasses which can tolerate drought stress. These grasses usually require high water use irrigation scheduling to stay green and vital, but will survive under limited water (e.g., turf-type tall fescues, Medallion, and Rebel).

2. **Functional need (for turf).** Turf planting which serves a functional or practical need rather than purely aesthetic purpose. Examples include: athletic fields and pedestrian circulation areas.

3. **High water use plantings.** Annuals, container plantings, and plans recognized as high water use (e.g., Rhododendrons or Birch) or plants documented as having a plant factor greater than 0.6.

4. **Hydrozone.** A landscape area having plants with similar water needs. Typically, a hydrozone is served by a valve or set of valves with the same type of irrigation hardware and schedule.

5. **Irrigation circuit.** A section of an irrigation system, including the piping and sprinkler heads or emitters, that is operated by a single remote control valve.

6. **Landscaped area.** The parcel area less building footprints, driveway, parking areas, paved walks and patios, and undeveloped open space of designated natural areas. Project landscaped area includes all areas under irrigation, water features, and hardscape other than those noted above.

7. **Low water use plants.** Plants which are recognized as drought resistant or low water use when established, or plants documented as having a plant factor less than or equal to 0.6.

8. **Microclimate**. A section of a landscaped site with unique climatic conditions that affect the amount of water plants within the area use (e.g., courtyards, tree understory areas, and median islands).

9. **Non-mechanically compacted soil.** Soil which has not undergone engineered compaction procedures.

10. **Organic amendment.** Any fully organic material added to the soil to improve soil structure, and other physical properties of the soil (e.g., compost, composted sawdust, peat moss, and redwood soil conditioner).

11. **Overspray.** Water which is discharged from an overhead irrigation system outside the desired planting area, especially water which wets adjacent hard surfaces (e.g., patios, sidewalks, and streets).

12. **Plant factor.** A number which represents the portion of reference evapotranspiration used by a particular plant. For example, a shrub with a plant factor of 0.5 uses 50 percent of reference evapotranspiration; a tree with a plant factor of 1.2 uses 120 percent of reference evapotranspiration.

13. **Porous mulch.** A loose material which is applied to the soil surface to reduce evaporation and retard weed growth (e.g., compost, decomposed granite, straw, wood chips).

14. **Rain shut-off device.** A device which automatically shuts the irrigation system off when a measurable amount of rain occurs.

15. **Reference evapotranspiration.** A standard calculation of the quantity of water transpired by a reference crop and evaporated from adjacent soil surfaces as measured by the California Irrigation Management Information System (CIMIS) of weather stations.

16. **Registered historical site.** A site that is registered as historically significant through either national, State, City or County registries.

17. **Runoff.** Water which is not absorbed by the soil to which it is applied and runs off onto other areas. Runoff usually occurs when water is applied at a rate greater than the infiltration rate of the soil, and is especially problematic on slopes and on heavy clay soils.

18. **Water feature.** Ornamental or functional body of water (e.g., a fountain, pool, or pond).

19. **Water saving techniques (to mitigate runoff from slopes).** Landscape design techniques which either allows irrigation to be applied at a rate close to the infiltration rate of the soil or which captures and recycles runoff.

Large Family Day Care Home. See "Day Care."

Laundry, Dry Cleaning Plant. A service establishment engaged primarily in high volume laundry and garment services, including: carpet and upholstery cleaners; diaper services; dry cleaning and garment pressing; commercial laundries; linen supply. These facilities may include accessory customer pick-up facilities. These facilities do not include coin-operated laundries or dry cleaning pick-up stores without dry cleaning equipment; see "Personal Services."

LCP. See "Local Coastal Program."

Library, Museum. Public or quasi-public facilities, examples of which include: aquariums, arboretums, art galleries and exhibitions, botanical gardens, historic sites and exhibits, libraries, museums, planetariums, and zoos. May also include accessory retail uses such as a gift/book shop, restaurant, etc.

Live/Work Unit. An integrated housing unit and working space, occupied and utilized by a single household in a structure, either single-family or multi-family, that has been designed or structurally modified to accommodate joint residential occupancy and work activity, and which includes:

1. Complete kitchen space and sanitary facilities in compliance with the Building Code; and

2. Working space reserved for and regularly used by one or more occupants of the unit.

Local Coastal Program (LCP): **A local government's (a) land use plans, (b) zoning ordinances, (c) zoning district maps, and (d) within sensitive coastal resource area, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of, the Coastal Act.** ~~The following documents comprise the City of Fort Bragg Local Coastal Program, in compliance with the Coastal Act: the Land Use Plan of the City's Local Coastal Program; the portions of these zoning regulations listed in Section 18.10.020.C; the Zoning Map; and any other implementing actions undertaken by the City in compliance with the Coastal Act.~~

Lodging.

1. **Bed and Breakfast Inn (B&B).** A residential structure with one or more bedrooms rented for overnight lodging **with an on-site manager**, where meals may be provided subject to applicable Environmental Health Department regulations. **[*CITY REQUESTED MOD*]**

2. **Hotel or Motel.** A facility with guest rooms or suites, with or without kitchen facilities, rented to the general public for transient lodging. Hotels typically include a variety of services in addition to lodging; for example, restaurants, meeting facilities, personal services, etc. Also includes accessory guest facilities such as swimming pools, tennis courts, indoor athletic facilities, accessory retail uses, etc.

Lot Area. Gross lot area is the total area included within the lot lines of a lot, exclusive of adjacent dedicated street rights of way. Net lot area is the gross area of the lot, exclusive of easements for streets or driveways that are not for the exclusive use of the lot on which the easement is located.

Lot, or Parcel. A recorded lot or parcel of real property under single ownership, lawfully created as required by applicable Subdivision Map Act and City ordinance requirements, including this Land Use and Development Code. Types of lots include the following. See Figure 10-3 (Lot Types).

1. **Corner Lot.** A lot located at the intersection of two or more streets, where they intersect at an interior angle of not more than 175 degrees. If the intersection angle is more than 175 degrees, the lot is considered an interior lot.

2. **Flag Lot.** A lot having access from the building site to a public street by means of private right-of-way strip that is owned in fee.

3. **Interior Lot.** A lot abutting only one street.

4. **Key Lot.** An interior lot **that fronts on two streets and adjoins both the side and back** ~~the front of which adjoins the side~~ property line of a corner lot. **[*CITY REQUESTED MOD*]**

5. **Reverse corner Lot.** A corner lot, the rear of which abuts a key lot.

6. **Through Lot.** A lot with frontage on two generally parallel streets.

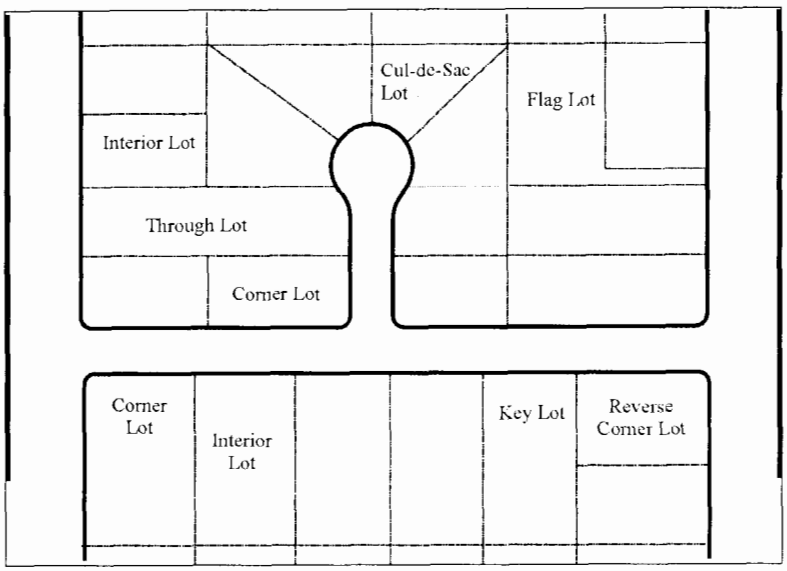

Figure 10-3 – Lot Types

Lot Coverage. See "Site Coverage."

Lot Depth. The average linear distance between the front and the rear lot lines or the intersection of the two side lot lines if there is no rear line. See Figure 10-4 (Lot Features). The Director shall determine lot depth for parcels of irregular configuration.

Lot Frontage. The boundary of a lot adjacent to a public street right-of-way.

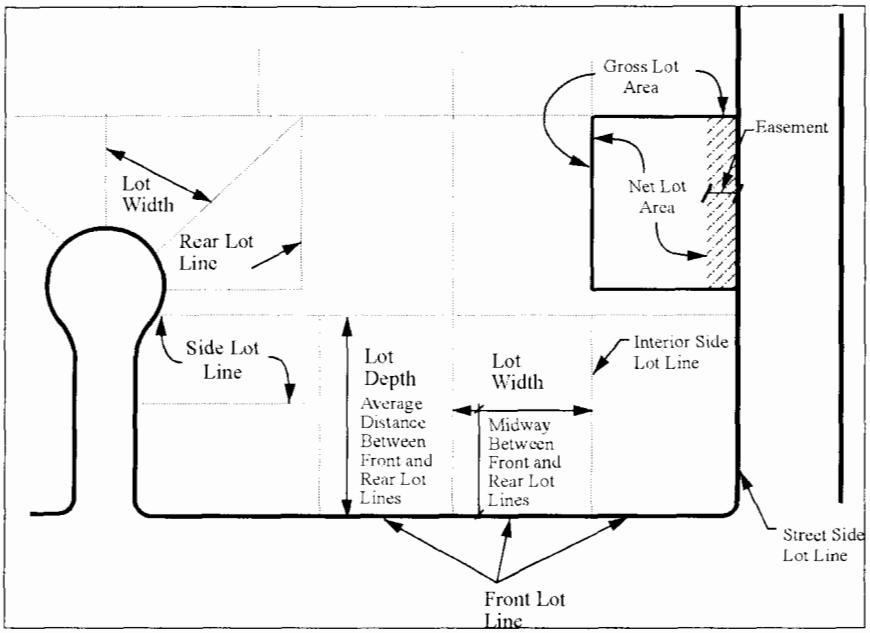

Figure 10-4 – Lot Features

Lot Line or Property Line. Any recorded boundary of a lot. Types of lot lines are as follows (see Figure 10-4 (Lot Features)):

1. **Front Lot Line.** On an interior lot, the property line separating the parcel from the street. The front lot line on a corner lot is the line with the shortest frontage. (If the street-fronting lot lines of a corner lot are equal in length, the front lot line shall be determined by the Director.) On a through lot, both lot lines are front lot lines and the lot is considered to have no rear lot line.

2. **Interior Lot Line.** Any lot line not abutting a street.

3. **Rear Lot Line.** A property line that does not intersect the front lot line, which is most distant from and most closely parallel to the front lot line.
4. **Side Lot Line.** Any lot line that is not a front or rear lot line.

Lot Width. The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines. See Figure 10-3 (Lot Features). The Director shall determine lot width for parcels of irregular shape.

M. Definitions, "M."

Maintenance Service, Client Site Services. Base facilities for various businesses that provide services on the premises of their clients. Includes gardening, janitorial, pest control, water and smoke damage recovery, and similar services; and appliance, computer, electronics, elevator, equipment, HVAC, instrument, plumbing, and other maintenance and repair services not operating from a retail establishment that sells the products being maintained or repaired. When these services operate from a retail establishment that sells the products being maintained or repaired, they are instead considered part of the retail use. When the base facilities for these services include service or storage yards, or fleet vehicle storage, they are instead classified under "Construction Contractor Base."

Manufacturing/Processing - Heavy. A facility accommodating manufacturing processes that involve and/or produce basic metals, building materials, chemicals, fabricated metals, paper products, machinery, textiles, and/or transportation equipment, where the intensity and/or scale of operations may cause significant impacts on surrounding land uses or the community. Heavy manufacturing uses are not allowed within the City of Fort Bragg except where limited varieties are included under the definition of "Manufacturing - Intensive." Examples of heavy manufacturing uses include the following.

1. **Chemical Product Manufacturing.** An establishment that produces or uses basic chemicals, and other establishments creating products predominantly by chemical processes. Examples of these products include: basic chemicals, including acids, alkalies, salts, and organic chemicals; chemical products to be used in further manufacture, including synthetic fibers, plastic materials, dry colors, and pigments; and finished chemical products to be used for ultimate consumption, including drugs/pharmaceuticals, cosmetics, and soaps; or to be used as materials or supplies in other industries including paints, fertilizers, and explosives. Also includes sales and transportation establishments handling the chemicals described above, except as part of retail trade.

2. **Concrete, Gypsum, and Plaster Product Manufacturing.** An establishment that produces bulk concrete, concrete building block, brick, and/or other types of precast and prefabricated concrete products. Also includes ready-mix concrete batch plants, lime manufacturing, and the manufacture of gypsum products, including plasterboard. A retail ready-mix concrete operation as an incidental use in conjunction with a building materials outlet is defined under "Building and Landscape Materials Sales."

3. **Glass Product Manufacturing.** An establishment that manufactures glass and/or glass products by melting silica sand or cullet, including the production of flat glass and other glass products that are pressed, blown, or shaped from glass produced in the same establishment. Artisan and craftsman type operations of a larger scale than home occupations are instead included under ("Manufacturing - Light - Handcraft Industries and Small-Scale Manufacturing").

4. **Paving and Roofing Materials Manufacturing.** The manufacture of various common paving and petroleum-based roofing materials, including bulk asphalt, paving blocks made of asphalt, creosote wood, and various compositions of asphalt and tar. Does not include the manufacture of wood roofing materials (shingles, shakes, etc.) ("Lumber and Wood Product Manufacturing").

5. **Petroleum Refining and Related Industries.** Industrial plants for purifying petroleum, and the compounding of lubricating oils and greases from purchased materials. Also includes oil or gas processing facilities, liquified natural gas (LNG) facilities, the manufacture of petroleum coke and fuel briquettes, tank farms, and terminal facilities for pipelines. Does not include petroleum pipeline surge tanks and pump stations ("Public Utility Facilities"), or petroleum product distributors ("Petroleum Product Storage and Distribution").

6. **Plastics, other Synthetics, and Rubber Product Manufacturing.** The manufacture of rubber products including: tires, rubber footwear, mechanical rubber goods, heels and soles, flooring, and other rubber products from natural, synthetic, or reclaimed rubber. Also includes establishments engaged primarily in manufacturing tires; products from recycled or reclaimed plastics or styrofoam; molding primary plastics for other manufacturers, manufacturing miscellaneous finished plastics products, fiberglass manufacturing, and

fiberglass application services. Does not include establishments engaged primarily in recapping and retreading automobile tires ("Vehicle Services - Major Repair/Body Work").

7. **Primary Metal Industries.** An establishment engaged in: the smelting and refining of ferrous and nonferrous metals from ore, pig, or scrap; the rolling, drawing, and alloying of metals; the manufacture of castings, forgings, stampings, extrusions, and other basic metal products; and the manufacturing of nails, spikes, and insulated wire and cable. Also includes merchant blast furnaces and by-product or beehive coke ovens.

8. **Pulp and Pulp Product Manufacturing.** An establishment that manufactures pulp, paper, or paperboard. Includes pulp, paper, and paperboard mills. Does not include establishments primarily engaged in converting paper or paperboard without manufacturing the paper or paperboard, including envelope manufacturing, converted paper products, paper coating and glazing, paper bags, assembly of paperboard boxes, wallpaper ("Manufacturing - Light" B Paper Product Manufacturing).

9. **Textile and Leather Product Manufacturing.** An establishment that converts basic fibers (natural or synthetic) into a product, including yarn or fabric, that can be further manufactured into usable items ("Manufacturing - Light - Clothing and Fabric Product Manufacturing"), and industries that transform hides into leather by tanning or curing. Includes:

coating, waterproofing, or otherwise treating fabric
dressed and dyed furs
dying and finishing fiber, yarn, fabric, and knit apparel
leather-tanned, curried, and finished
manufacture of knit apparel and other finished products from yarn
manufacture of felt goods, lace goods, non-woven fabrics and miscellaneous textiles
manufacturing of woven fabric, carpets, and rugs from yarn
preparation of fiber and subsequent manufacturing of yarn, threads, braids, twine cordage
scouring and combing plants
upholstery manufacturing
yarn and thread mills

Manufacturing/Processing - Light. A facility accommodating manufacturing processes involving and/or producing: apparel; food and beverage products; electronic, optical, and instrumentation products; ice; jewelry; and musical instruments. Light manufacturing also includes other establishments engaged in the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community. Examples of light manufacturing uses include the following.

1. **Clothing and Fabric Product Manufacturing.** An establishment that assembles clothing, draperies, and/or other products by cutting and sewing purchased textile fabrics, and related materials including leather, rubberized fabrics, plastics and furs. Does not include custom tailors and dressmakers not operating as a factory and not located on the site of a clothing store (see "Personal Services"). See also, "Manufacturing - Heavy - Textile and Leather Product Manufacturing."

2. **Electronics, Equipment, and Appliance Manufacturing.** An establishment that manufactures equipment, apparatus, and/or supplies for the generation, storage, transmission, transformation and use of electrical energy, including:

appliances including stoves/ovens, refrigerators, freezers, laundry equipment, fans, vacuum cleaners, sewing machines
aviation instruments
computers, computer components, peripherals
electrical transmission and distribution equipment
electronic components and accessories, semiconductors, integrated circuits, related devices
electrical welding apparatus
lighting and wiring equipment such as lamps and fixtures, wiring devices, vehicle lighting
industrial controls
instruments for measurement, testing, analysis and control, associated sensors and accessories
miscellaneous electrical machinery, equipment and supplies such as batteries, X-ray apparatus and tubes, electromedical and electrotherapeutic apparatus, electrical equipment for internal combustion engines
motors and generators
optical instruments and lenses
photographic equipment and supplies
radio and television receiving equipment
surgical, medical and dental instruments, equipment, and supplies
storage media, blank and pre-recorded, including magnetic, magneto-optical, and optical products such as compact disks (CDs), computer diskettes and hard drives, digital versatile disks (DVDs), magnetic tape products, phonograph records, etc.
surveying and drafting instruments
telephone and telegraph apparatus
transformers, switch gear and switchboards
watches and clocks

Does not include testing laboratories (soils, materials testing, etc.) (see "Business Support Services"), or research and development facilities separate from manufacturing (see "Research and Development").

3. **Food and Beverage Product Manufacturing.** Manufacturing establishments producing or processing foods and beverages for human consumption, and certain related products. Examples of these uses include:

bottling plants
breweries
candy, sugar, confectionery products manufacturing
catering services separate from stores or restaurants
coffee roasting
dairy products manufacturing
fat and oil product manufacturing
fruit and vegetable canning, preserving, related processing
grain mill products and by-products
meat, poultry, and seafood canning, curing, byproduct processing
soft drink production
miscellaneous food item preparation from raw products

Does not include: bakeries, which are separately defined; or beer brewing as part of a brew pub, bar or restaurant (see "Bar/Tavern," and "Night Club").

4. **Furniture and Fixtures Manufacturing, Cabinet Shop.** Manufacturers producing: wood and metal household furniture and appliances; bedsprings and mattresses; all types of office furniture and public building furniture and partitions, shelving, lockers and store furniture; and miscellaneous drapery hardware, window blinds and shades. Includes furniture re-upholstering businesses, wood and cabinet shops, but not sawmills or planing mills, which are instead included under "Manufacturing - Heavy."

5. **Handcraft Industries, Small-Scale Manufacturing.** Establishments manufacturing and/or assembling small products primarily by hand, including jewelry, pottery and other ceramics, as well as small glass and metal art and craft products, and taxidermists. Also includes manufacturing establishments producing small products not classified in another major manufacturing group, including: brooms and brushes; buttons, costume novelties; jewelry; musical instruments; pens, pencils, and other office and artists' materials; sporting and athletic goods; toys; etc.

6. **Metal Products Fabrication, Machine and Welding Shops.** An establishment engaged in the production and/or assembly of metal parts, including the production of metal cabinets and enclosures, cans and shipping containers, doors and gates, duct work, forgings and stampings, hardware and tools, plumbing fixtures and products, tanks, towers, and similar products. Examples of these uses include:

   blacksmith and welding shops
   plating, stripping, and coating shops
   sheet metal shops
   machine shops and boiler shops

7. **Paper Product Manufacturing.** An establishment that converts pre-manufactured paper or paperboard into boxes, envelopes, paper bags, wallpaper, etc., and/or that coats or glazes pre-manufactured paper. Does not include the manufacturing of pulp, paper, or paperboard (see "Manufacturing - Heavy - Pulp and Pulp Product Manufacturing").

8. **Photo/Film Processing Lab.** A facility that provides high volume and/or custom processing services for photographic negative film, transparencies, and/or prints, where the processed products are delivered to off-site retail outlets for customer pick-up. Does not include small-scale photo processing machines accessory to other retail businesses.

Manufacturing/Processing - Medium Intensity. A facility accommodating manufacturing processes that involve and/or produce building materials, fabricated metal products, machinery, and/or transportation equipment, where the intensity and/or scale of operations is greater than those classified under "Manufacturing - Light," but where impacts on surrounding land uses or the community can typically be mitigated to acceptable levels. Examples of intensive manufacturing uses include the following.

1. **Lumber and Wood Product Manufacturing.** Manufacturing, processing, and sales involving the milling of forest products to produce rough and finished lumber and other wood materials for use in other manufacturing, craft, or construction processes. Includes the following processes and products:

   containers, pallets and skids
   manufactured and modular homes
   matches (wood)
   milling operations
   trusses and structural beams
   turning and shaping of wood products
   wholesaling of basic wood products
   wood product assembly

   Does not include craft-type shops ("Handcraft Industries and Small-Scale Manufacturing"); other wood and cabinet shops ("Furniture and Fixture Manufacturing, Cabinet Shops"); or the entirely indoor retail sale of building materials, construction tools and equipment ("Building and Landscape Materials Sales").

2. **Machinery Manufacturing.** An establishment that makes or processes raw materials into finished machines or parts for machines. Does not include the manufacture of electronics, equipment, or appliances ("Electronics, Equipment, and Appliance Manufacturing").

3. **Motor Vehicles and Transportation Equipment.** Manufacturers of equipment for transporting passengers and cargo by land, air and water, including motor vehicles, aircraft, spacecraft, ships, boats, railroad and other vehicles such as motorcycles, bicycles and snowmobiles. Includes manufacture of motor vehicle parts and accessories; trailers and campers for attachment to other vehicles; self-contained motor homes; and van conversions. Does not include mobile home and modular home assembly (listed under "Lumber and Wood Products").

4. **Stone and Cut Stone Product Manufacturing.** An establishment that cuts, shapes, and/or finishes marble, granite, slate, and/or other stone for construction and miscellaneous uses. Does not include establishments engaged primarily in buying or selling partly finished monuments and tombstones ("Handcraft industries, Small-scale Manufacturing").

5. **Structural Clay and Pottery Product Manufacturing.** An establishment that produces brick and structural clay products, including pipe, china plumbing fixtures, vitreous china articles, and/or fine earthenware and porcelain products. Does not include artist/craftsman uses (see "Handcraft Industries and Small Scale Manufacturing," "Home Occupations").

Map Act. See "Subdivision Map Act."

Media Production. Facilities for motion picture, television, video, sound, computer, and other communications media production. These facilities include the following types.

1. **Backlots/Outdoor Facilities.** Outdoor sets, backlots, and other outdoor facilities, including supporting indoor workshops and craft shops.

2. **Indoor Support Facilities.** Administrative and technical production support facilities, including administrative and production offices, post-production facilities (editing and sound recording studios, foley stages, etc.), optical and special effects units, film processing laboratories, etc.

3. **Soundstages.** Warehouse-type facilities providing space for the construction and use of indoor sets, including supporting workshops and craft shops.

Medical Marijuana Dispensary. Any facility or location where medical marijuana is made available to and/or distributed by or to two or more of the following: a primary caregiver, a qualified patient, or a person with an identification card, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A "medical marijuana dispensary" shall not include the following uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: 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 illness 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. (Ord. 851 §4, 2005.)

Medical Services - Clinic, Urgent Care. A facility other than a hospital where medical, mental health, surgical and other personal health services are provided on an outpatient basis. Examples of these uses include:

medical offices with four or more licensed practitioners and/or medical specialties
out-patient care facilities
urgent care facilities
other allied health services

These facilities may also include accessory medical laboratories. Counseling services by other than medical doctors or psychiatrists are included under "Offices - Professional."

Medical Services - Doctor Office. A facility other than a hospital where medical, dental, mental health, surgical, and/or other personal health care services are provided on an outpatient basis, and that accommodates no more than four licensed primary practitioners (for example, chiropractors, medical doctors, psychiatrists, etc., other than nursing staff) within an individual office suite. A facility with five or more licensed practitioners is instead classified under

"Medical Services - Clinic, Urgent Care." Counseling services by other than medical doctors or psychiatrists are included under "Offices - Professional."

Medical Services - Extended Care. Residential facilities providing nursing and health-related care as a primary use with in-patient beds. Examples of these uses include: 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."

Medical Services - Laboratory. Non-research facilities for the testing of blood and tissue samples for medical diagnoses, and for the fabrication of dental prosthetics and eyeglasses. Does not include laboratories for medical research, which are classified under "Laboratory - Analytical, Research and Development, Testing."

Medical Services - Hospital. 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 and emergency heliports (see the separate definition of "Accessory Retail Uses"), and on-site ambulance dispatch facilities.

Meeting Facility, Public or Private. A facility for public or private meetings, including community centers, religious assembly facilities (e.g., churches, mosques, synagogues, etc.), civic and private auditoriums, grange halls, union halls, meeting halls for clubs and other membership organizations, etc. Also includes functionally related internal facilities such as kitchens, multi-purpose rooms, and storage. Does not include conference and meeting rooms accessory and incidental to another primary use that are typically used only by on-site employees and clients, and occupy less floor area on the site than the offices they support (see "Offices"). Does not include: sports or other commercial entertainment facilities (see "Theater," and "Sports and Entertainment Assembly"); or convention centers (see "Conference/Convention Facility"). Related on-site facilities such as day care centers and schools are separately defined, and separately regulated by Section 18.20.030 (Allowable Land Uses).

Mixed-Use Project. A project that combines both commercial and residential uses, where the residential component is typically located above the commercial.

Mobile Home. A trailer, transportable in one or more sections, that is certified under the National Manufactured Housing Construction and Safety Standards Act of 1974, which is over eight feet in width and 40 feet in length, with or without a permanent foundation and not including recreational vehicle, commercial coach or factory-built housing. A mobile home on a permanent foundation is included under the definition of "Single-Family Dwellings."

Mobile Home, Boat, or RV Sales. Retail establishments selling both mobile home dwelling units, and/or various vehicles and watercraft for recreational uses. Includes the sales of boats, campers and camper shells, jet skis, mobile homes, motor homes, and travel trailers.

Mobile Home Park. 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. May include a common storage area for recreational vehicles owned by residents only.

Mortuary, Funeral Home. Funeral homes and parlors, where deceased are prepared for burial or cremation, funeral services may be conducted, and cremation may occur.

Motel. See "Lodging."

Multi-Family Housing. A dwelling unit that is part of a structure containing one or more other dwelling units, or a non-residential use. An example of the latter is a mixed-use project where, for example, one or more dwelling units

are part of a structure that also contains one or more commercial uses (retail, office, etc.). Multi-family dwellings include: duplexes, triplexes, fourplexes (buildings under one ownership with two, three or four dwelling units, respectively, in the same structure); apartments (five or more units under one ownership in a single building); and townhouse development (three or more attached dwellings where no unit is located over another unit), and other building types containing multiple dwelling units (for example, courtyard housing, rowhouses, stacked flats, etc.).

Municipal Storm Sewer System. A conveyance or system of conveyances, including municipal streets, gutters, conduits, natural or artificial drains, channels and watercourses, or other facilities owned, operated, maintained or controlled by City and used for the purpose of collecting, storing, transporting or disposing of storm water.

N. Definitions, "N."

National Pollutant Discharge Elimination System (NPDES). The National Pollutant Discharge Elimination System established by Section 402 of the Clean Water Act, 33 USC Section 1342, as it may be amended from time to time.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permits. General, group, and individual storm water discharge permits that regulate facilities defined in Federal NPDES regulations in compliance with the Clean Water Act. The California Regional Water Quality Control Board, North Coast Region (hereinafter, Regional Board) and the State Water Resources Control Board have adopted general storm water discharge permits, including but not limited to the General Construction Activity and General Industrial Activity permits.

Natural, or Existing Grade. The contour of the ground surface before grading.

Negative Declaration. A statement describing the reasoning that a proposed action will not have a significant adverse effect on the environment, in compliance with the California Environmental Quality Act (CEQA).

Night Club. A facility with the primary function of providing entertainment, examples of which include live music and/or dancing, comedy, etc., which may serve alcoholic beverages for on-site consumption. Does not include adult entertainment businesses, which are separately defined.

Nonconforming Parcel. A parcel that was legally created prior to the adoption of this Land Use and Development Code or amendment, but does not comply with the current area, width, depth, or other applicable requirements of this Land Use and Development Code.

Nonconforming Sign. A sign that lawfully existed prior to the effective date of this Land Use and Development Code or amendment, but does not comply with the current sign regulations of this Land Use and Development Code.

Nonconforming Structure. A structure that was legally constructed prior to the adoption or amendment of this Land Use and Development Code, but does not comply with the current setback, height limit, and/or other applicable requirements of this Land Use and Development Code.

Nonconforming Use. A use of land and/or a structure (either conforming or nonconforming) that was legally established and maintained prior to the adoption of this Land Use and Development Code or amendment, but does not conform to the current Land Use and Development Code requirements for allowable land uses within the applicable zoning district.

Non-Storm Water Discharge. ~~Any discharge to the storm drain system that is not composed entirely of storm water.~~ **All discharges to and from a MS4 that do not originate from precipitation events (i.e., all discharges from a MS4 other than stormwater). Non-stormwater includes illicit discharges, non-prohibited discharges, and NPDES permitted discharges.**

NPDES. See "National Pollutant Discharge Elimination System."

O. Definitions, "O."

Occupancy. All or a portion of a structure occupied by one tenant.

Off-Sale Liquor Establishment. Any establishment at which alcohol is sold, served, or given to patrons, to be consumed off-site, except food markets, supermarkets, drugstores, and other retail establishments in which the sale of alcohol for off-site use constitutes less than 20 percent of the total sales.

Off-Site. An activity or accessory use that is related to a specific primary use, but is not located on the same site as the primary use.

Office. This Land Use and Development Code distinguishes between the following types of offices. These do not include medical offices (see "Medical Service - Clinic, Laboratory, Urgent Care," and "Medical Service - Doctor Office.")

1. **Accessory.** Office facilities for administration, and/or on-site business and operations management, that are incidental and accessory to another business, sales, and/or service activity that is the primary use.

2. **Business/Service.** Establishments providing direct services to customers. Examples of these uses include bail bond services, elected official satellite offices, employment agencies, insurance agent offices, realtor offices, travel agencies, utility company offices, vehicle sales offices with no vehicles for sale on-site, etc. This use does not include "Bank, Financial Services," which is separately defined.

3. **Government.** Administrative, clerical, or public contact and/or service offices of a local, state, or federal government agency or service facilities. Includes post offices, but not bulk mailing distribution centers, which are under "Freight Terminal."

4. **Processing.** Office-type facilities characterized by high employee densities, and occupied by businesses engaged in information processing, and other computer-dependent and/or telecommunications-based activities. Examples of these uses include the following, but do not include small-scale telephone answering services, which are instead classified under "Office - Professional or Administrative.":

   airline, lodging chain, and rental car company reservation centers
   computer software and hardware design and development
   consumer credit reporting
   data processing services
   health management organization (HMO) offices where no medical services are provided
   insurance claim processing
   mail order and electronic commerce transaction processing
   telecommunications facility design and management
   telemarketing

5. **Professional and Administrative.** Office-type facilities occupied by businesses that provide professional services and/or engaged in the production of intellectual property. Examples of these uses include:

   accounting, auditing and bookkeeping services
   advertising agencies
   answering services
   attorneys
   business associations, chambers of commerce
   commercial art and design services
   construction contractors (office facilities only)
   counseling services
   court reporting services
   detective agencies and similar services
   design services including architecture, engineering, landscape architecture, urban planning
   educational, scientific and research organizations

financial management and investment counseling
literary and talent agencies
management and public relations services
media postproduction services
news services
photographers and photography studios
political campaign headquarters
psychologists
secretarial, stenographic, word processing, and temporary clerical employee services
security and commodity brokers
writers and artists offices

6. **Temporary.** A mobile home, recreational vehicle or modular unit used as a temporary office facility. Temporary Offices may include: construction supervision offices on a construction site or off-site construction yard; a temporary on-site real estate office for a development project; or a temporary business office in advance of permanent facility construction.

7. **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.

Office-Supporting Retail. A retail store that carries one or more types of merchandise that will typically be of frequent interest to and/or needed by the various businesses listed under the definition of "Office," and/or the employees of those businesses. Examples of these types of merchandise include:

Books
Computer equipment
Florists, flower stands
Newstands, newspapers and magazine stores
Office supplies, stationery
Photographic supplies and cameras

On-Sale Liquor Establishment. Any establishment at which alcohol is sold, served, or given to patrons, to be consumed on-site.

On-Site. An activity or accessory use that is related to a specific primary use, which is located on the same site as the primary use.

Open Fencing. A barrier constructed of material which is transparent, such as glass, plastic panels or wrought iron, used in conjunction with recreation and seating areas.

Ordinary Maintenance and Repair. Work for which a Building Permit is not required, the purpose and effect of which is to correct deterioration of or damage to a structure or any part thereof and to restore the structure to its condition before the deterioration or damage.

Organizational House. A residential lodging facility operated by a membership organization for its members and not open to the general public. Includes fraternity and sorority houses, student dormitories, convents, monasteries, and religious residential retreats.

Outdoor Retail Sales and Activities. Permanent outdoor sales and rental establishments including auction yards, flea markets, lumber and other material sales yards, newsstands, outdoor facilities for the sale or rental of vehicles/equipments, and other uses where the business is not conducted entirely within a structure. Does not include the sale of automobiles and recreational vehicles ("Auto and Vehicle Sales and Rental") or mobile homes ("Mobile Home, Boat, or RV Sales"). Outdoor retail sales and activities shall comply with the standards for "Outdoor Displays and Sales" in Section 18.42.130.

P. Definitions, "P."

Parcel. See "Lot, or Parcel."

Park/Playground. A public outdoor recreation facility that may provide a variety of recreational opportunities including playground equipment, open space areas for passive recreation and picnicking, and sport and active recreation facilities.

Pedestrian Orientation. Any physical structure or place with design qualities and elements that contribute to an active, inviting and pleasant place for pedestrians including:

1. Building facades that are highly articulated at the street level, with interesting uses of material, color, and architectural detailing, located directly behind the sidewalk;
2. Design amenities related to the street level such as awnings, paseos, arcades;
3. Visibility into buildings at the street level;
4. A continuous sidewalk, with a minimum of intrusions into pedestrian right-of-way;
5. Continuity of building facades along the street with few interruptions in the progression of buildings and stores;
6. Signs oriented and scaled to the pedestrian rather than the motorist;
7. Landscaping; and
8. Street furniture.

Pedestrian Oriented Use. A land use that is intended to encourage walk-in customers and that generally does not limit the number of customers by requiring appointments or otherwise excluding the general public. A pedestrian oriented use provides spontaneous draw from sidewalk and street due to visual interest, high customer turnover, and social interaction.

Person. Any individual, firm, partnership, corporation, company, association, joint stock association; city, county, state, or district; and includes any trustee, receiver, assignee, or other similar representative thereof.

Personal Services. Establishments providing non-medical services to individuals as a primary use. Examples of these uses include:

barber and beauty shops
clothing rental
dry cleaning pick-up stores with limited equipment
home electronics and small appliance repair
laundromats (self-service laundries)
locksmiths
massage (licensed, therapeutic, non-sexual)
pet grooming with no boarding
shoe repair shops
tailors
tanning salons

These uses may also include accessory retail sales of products related to the services provided.

Personal Services - Restricted. Personal services that may tend to have a blighting and/or deteriorating effect upon surrounding areas and which may need to be dispersed to minimize their adverse impacts. Examples of these uses include:

check cashing stores
fortune tellers
palm and card readers
pawnshops
psychics
spas and hot tubs for hourly rental
tattoo and body piercing services

Petroleum Product Storage and Distribution. Wholesale establishments engaged in the storage, and sale of gasoline, oil, butane, propane, and liquified petroleum gas (LPG) and similar products, to retailers. Does not include the sale of gasoline at a service station ("Service Stations"), or the retail sale of fuel for space heating ("Fuel Dealer").

Planning Commission. The City of Fort Bragg Planning Commission, appointed by the Fort Bragg City Council in compliance with Government Code Section 65101, referred to throughout this Land Use and Development Code as the "Commission."

Planning Permit. Authority granted by the City to use a specified site for a particular purpose. "Planning Permit" includes **Coastal Development Permit,** Use Permit, Minor Use Permit, Limited Term Permit, Variance, Minor Variance, Design Review, and Zoning Clearance, as established by Article 7 (Planning Permit Procedures) of this Land Use and Development Code.

Plant Nursery. A commercial agricultural establishment engaged in the production of ornamental plants and other nursery products, grown under cover either in containers or in the soil on the site, or outdoors in containers. The outdoor production of ornamental plants in the soil on the site is instead included under "Crop Production, Horticulture, Orchard, Vineyard." Also includes establishments engaged in the sale of these products (e.g., wholesale and retail nurseries) and commercial-scale greenhouses (home greenhouses are included under "Residential Accessory Use or Structure"). The sale of house plants or other nursery products entirely within a building is also included under "General Retail."

Pollutant. Anything which causes or contributes to pollution. Pollutants may include: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete finsates); and noxious or offensive matter of any kind.

Pollution. The human-made or human-induced alteration of the quality of waters by waste to a degree which unreasonably affects, or has the potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses (California Water Code § 13050).

Porter-Cologne Act. The Porter-Cologne Water Quality Control Act and as amended (California Water Code § 13000 et seq.).

Professional Inspection. An inspection required by this Development Code, the Director, or City Engineer to be performed by a civil engineer, soils engineer, or engineering geologist. these inspections include those performed by persons supervised by engineers or geologists.

~~**Projected Runoff.** A numerical projection based on the following formula: precipitation multiplied by parcel size multiplied by imperviousness factor. Precipitation shall be presumed in all cases to be one inch of rainfall falling~~

~~within a 24-hour period. Parcel size shall be the total square footage of the lot being developed. An imperviousness factor represents the amount of average storm water drainage from the average of all parcels zoned for a particular land use. This numerical projection shall be used as a starting point in measuring compliance with the 20 percent urban runoff reduction required by this Development Code.~~

Primary Structure. A structure that accommodates the primary use of the site.

Primary Use. The main purpose for which a site is developed and occupied, including the activities that are conducted on the site a majority of the hours during which activities occur.

Printing and Publishing. An establishment engaged in printing by letterpress, lithography, gravure, screen, offset, or electrostatic (xerographic) copying; and other establishments serving the printing trade such as bookbinding, typesetting, engraving, photoengraving and electrotyping. This use also includes establishments that publish newspapers, books and periodicals; establishments manufacturing business forms and binding devices. "Quick printing" services are included in the definition of "Business Support Services."

Private Residential Recreation Facility. A privately-owned, non-commercial outdoor recreation facility provided for residential project or neighborhood residents, including swimming pools, swim and tennis clubs, park and sport court facilities. Does not include golf courses and country clubs, which are separately defined.

Produce Stand. A temporary business established and operated for a specific time, selling raw, unprocessed fruits, vegetables, nuts, and other produce in its raw or natural state, and that is accessory to an on-site or adjacent agricultural operation.

Property Line. The recorded boundary of a parcel of land.

Proposed Project. A proposed new structure, new addition to an existing structure, or area of other new site development; these do not include the alteration of any portion of an existing structure other than an addition.

Protected Zone of a Tree. The maximum extent of the drip line of the tree plus five feet, projected in a circle around the tree, with the trunk at the center of the circle.

Public Auction, Flea Market. An indoor or outdoor facility where items sold are auctioned to on-site customers, or where used and/or new merchandise is sold at retail by individual vendors in a temporary or permanent facility operated and managed by a different proprietor or business entity, provided that the operator may also be engaged in sales.

Public Facility. A site or structure owned and operated by the City of Fort Bragg for the purpose of providing one or more services to residents of the City, and/or to support other City functions.

Public Safety Facility. A facility operated by a public agency including fire stations, other fire prevention and fire fighting facilities, police and sheriff substations and headquarters, including interim incarceration facilities. May include ambulance dispatch facilities on the same site.

Q. Definitions, "Q."

Qualifying Resident. A senior citizen or other person eligible to reside in senior citizen housing.

R. Definitions, "R."

Recreational Vehicle (RV). A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, originally designed for human habitation for recreational, emergency, or other occupancy, which:

1. Contains less than 320 square feet of internal living room area, excluding built-in equipment, including wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms; and

2. Contains 400 square feet or less of gross area measured at maximum horizontal projections; and

3. Is built on a single chassis; and

4. Is either self-propelled, truck-mounted, or permanently towable on the highways without a towing permit.

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.

Recycling Facility. This land use type includes a variety of facilities involved with the collection, sorting and processing of recyclable materials.

1. **Small Collection Facility.** A center where the public may donate, redeem or sell recyclable materials, which may include the following, where allowed by the applicable zoning district:

   a. Reverse vending machines;

   b. Small collection facilities which occupy an area of 350 square feet or less and may include a mobile unit;

2. **Medium Collection Facility.** Includes the following:

   a. Bulk reverse vending machines or a grouping of reverse vending machines occupying more than 50 square feet; and

   b. A kiosk unit.

3. **Large Collection Facility.** Large collection facilities which occupy an area of more than 350 square feet and/or include permanent structures.

4. **Mobile Recycling Unit.** An automobile, truck, trailer, or van used for the collection of recyclable materials, carrying bins, boxes, or other containers.

5. **Processing Facility.** A structure or enclosed space used for the collection and processing of recyclable materials for shipment, or to an end-user's specifications, by such means as baling, briquetting, cleaning, compacting, crushing, flattening, grinding, mechanical sorting, re-manufacturing and shredding. Processing facilities include the following types, both of which are included under the definition of "Scrap and Dismantling Yards," below:

   a. Light processing facility occupies an area of under 45,000 square feet of collection, processing and storage area, and averages two outbound truck shipments each day. Light processing facilities are limited to baling, briquetting, compacting, crushing, grinding, shredding and sorting of source separated recyclable materials sufficient to qualify as a certified processing facility. A light processing facility shall not shred, compact, or bale ferrous metals other than food and beverage containers; and

b. A heavy processing facility is any processing facility other than a light processing facility.

6. **Recycling Facility.** A center for the collection and/or processing of recyclable materials. A "certified" recycling or processing facility is certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1786. A recycling facility does not include storage containers located on a residentially, commercially or industrially designated site used solely for the recycling of material generated on the site. See "Collection Facility" above.

7. **Recycling or Recyclable Material.** Reusable domestic containers and other materials which can be reconstituted, re-manufactured, or reused in an altered form, including glass, metals, paper and plastic. Recyclable material does not include refuse or hazardous materials.

8. **Reverse Vending Machine.** An automated mechanical device which accepts at least one or more types of empty beverage containers and issues a cash refund or a redeemable credit slip with a value not less than the container's redemption value, as determined by State law. These vending machines may accept aluminum cans, glass and plastic bottles, and other containers.

   A bulk reverse vending machine is a reverse vending machine that is larger than 50 square feet, is designed to accept more than one container at a time, and issues a cash refund based on total weight instead of by container.

9. **Scrap and Dismantling Yards.** Outdoor establishments primarily engaged in assembling, breaking up, sorting, and the temporary storage and distribution of recyclable or reusable scrap and waste materials, including auto wreckers engaged in dismantling automobiles for scrap, and the incidental wholesale or retail sales of parts from those vehicles. Includes light and heavy processing facilities for recycling (see the definitions above). Does not include: places where these activities are conducted entirely within buildings; pawn shops, and other secondhand stores; the sale of operative used cars; or landfills or other waste disposal sites.

~~**Reduced Runoff.** A numerical projection based on the following formula: projected runoff multiplied by 0.80. This projection represents the maximum amount of storm water drainage expected to occur at a particular site upon implementation of an approved Urban Runoff Mitigation Plan.~~

Repair Service - Equipment, Large Appliances, etc. A service and facility where various types of electrical, electronic, and mechanical equipment, and home and business appliances are repaired and/or maintained away from the site of the equipment owner. Does not include vehicle repair or maintenance, which is included under "Vehicle Services", the repair of small home appliances and electronic equipment, which is included under "Personal Services", maintenance and repair activities that occur on the client's site, which are included under "Maintenance Service - Client Site Services," or repair services provided on the site of a retail use that sells the products for which repair services are offered, which are incidental to the on-site sales.

Residential Accessory Use or Structure. Any use and/or structure that is customarily a part of, and clearly incidental and secondary to a residence, and does not change the character of the residential use. This definition includes the following detached accessory structures, and other similar structures normally associated with a residential use of property. See also "Agricultural Accessory Structure."

garages
gazebos
greenhouses (non-commercial)
spas and hot tubs
storage sheds
studios
swimming pools
tennis and other on-site sport courts
workshops

Also includes the indoor storage of automobiles (including their incidental restoration and repair), personal recreational vehicles and other personal property, accessory to a residential use. Does not include: second units, which are separately defined; guest houses, which are included under the definition of second units; or home satellite dish and other receiving antennas for earth-based TV and radio broadcasts (see "Telecommunications Facilities").

Residential Care. A single-family dwelling or multi-unit facility licensed or supervised by a Federal, State, or local health/welfare agency that provides 24-hour nonmedical care of unrelated persons who are handicapped and in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment. Does not include day care facilities, which are separately defined.

Residential Care Facility for the Elderly (RCFE). A housing arrangement chosen voluntarily by the residents, or the residents' guardians, conservators or other responsible persons; where 75 percent of the residents are at least 62 years of age, or, if younger, have needs compatible with other residents; and where varying levels of care and supervision are provided, as agreed to at the time of admission or as determined necessary at subsequent times of reappraisal (definition from California Code of Regulations Title 22, Division 6, Chapter 6, Residential Care Facilities for the Elderly). RCFE projects may include basic services and community space.

RCFE projects include assisted living facilities (board and care homes), congregate housing, independent living centers/senior apartments, and life care facilities as defined below.

1. **Assisted Living Facility.** A residential building or buildings that also provide housing, personal and health care, as permitted by the Department of Social Services, designed to respond to the daily, individual needs of the residents. Assisted Living Facilities may include kitchenettes (small refrigerator, sink and/or microwave oven) within individual rooms. Assisted Living Facilities are required to be licensed by the California Department of Social Services, and do not include skilled nursing services.

2. **Independent Living Center/Senior Apartment.** Independent living centers and senior apartments and are multi-family residential projects reserved for senior citizens, where common facilities may be provided (for example, recreation areas), but where each dwelling unit has individual living, sleeping, bathing, and kitchen facilities.

3. **Life Care Facility.** Sometimes called Continuing Care Retirement Communities, or Senior Continuum of Care Complex, these facilities provide a wide range of care and supervision, and also provide health care (skilled nursing) so that residents can receive medical care without leaving the facility. Residents can expect to remain, even if they become physically incapacitated later in life. Life Care Facilities require multiple licensing from the State Department of Social Services, the State Department of Health Services, and the State Department of Insurance.

Residential Component of Mixed Use Project. See "Mixed Use Project."

Residential Zone. Any of the following zoning districts established by Chapter 18.14 (Zoning Map): RR (Rural Residential), RS (Suburban Residential), RL (Low Density Residential), RM (Medium Density Residential), RH (High Density Residential), and RVH (Very High Density Residential).

Restaurant, Café, Coffee Shop. A retail business selling ready-to-eat food and/or beverages for on- or off-premise consumption. These include eating establishments where customers are served from a walk-up ordering counter for either on- or off-premise consumption ("counter service"); and establishments where customers are served food at their tables for on-premise consumption ("table service"), that may also provide food for take-out.

Retail Complex. A primarily retail commercial site with three or more separate businesses sharing common pedestrian and parking areas.

Review Authority. The individual or official City body (the Community Development Director, Planning Commission, or City Council) identified by this Land Use and Development Code as having the responsibility and authority to review, and approve or disapprove the permit applications described in Article 7 (Planning Permit Procedures).

Rooming or Boarding House. A dwelling or part of a dwelling where lodging is furnished for compensation to five or more persons living independently from each other. Meals may also be included. Does not include fraternities, sororities, convents, or monasteries, which are separately defined under "Organizational House."

S. Definitions, "S."

School. A public or private academic educational institution, including:

boarding school
community college, college, or university
elementary, middle, and junior high schools
high school
military academy

Also includes schools providing specialized education/training. Examples include the following:

art school
ballet and other dance school
business, secretarial, and vocational school
computers and electronics school
drama school
driver education school
establishments providing courses by mail
language school
martial arts
music school
professional school (law, medicine, etc.)
seminaries/religious ministry training facility

Also includes facilities, institutions and conference centers that offer specialized programs in personal growth and development, such as fitness, environmental awareness, arts, communications, and management. Does not include pre-schools and child day care facilities (see "Day Care"). See also the definition of "Studio - Art, Dance, Martial Arts, Music, etc." for smaller-scale facilities offering specialized instruction.

Second Hand Store. A retail store that buys and sell used products, including clothing, furniture and household goods, jewelry, appliances, musical instruments, business machines and office equipment, tools, motors, machines, instruments, firearms, or any similar secondhand articles or objects. Does not include bookstores ("Retail Stores"); secondhand farm and construction equipment ("Construction, Farm, and Heavy Equipment Sales"); junk dealers, or scrap/dismantling yards (Recycling Facilities - Scrap and Dismantling Yards"); the sale of antiques and collectibles ("Retail Stores"); the sale of cars and other used vehicles ("Auto and Vehicle Sales, Leasing, and Rental, Used"); or pawnshops ("Personal Services - Restricted").

Second Unit or Carriage House. A second permanent dwelling that is accessory to a primary dwelling on the same site. A second unit or carriage house provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, sanitation, and parking, and if attached to the primary dwelling, is provided exterior access separate from the primary dwelling. A carriage house is a second unit located over a detached garage. Includes guest houses.

Service Station. A retail business selling gasoline and/or other motor vehicle fuels, and related products. Where allowed by Article 2 (Zoning Districts and Allowable Land Uses), a gas station may also include a "Convenience Store," "Vehicle Services," and/or trailer rental ("Auto and Vehicle Sales or Rental"), which are separately defined.

Setback. The distance by which a structure, parking area or other development feature must be separated from a lot line, other structure or development feature, or street centerline. See also "Yard," and Section 18.30.100 (Setback Requirements and Exceptions).

Sign. A structure, device, figure, display, message placard, or other contrivance, or any part thereof, situated outdoors or indoors, which is designed, constructed, intended, or used to advertise, or to provide information in the nature of advertising, to direct or attract attention to an object, person, institution, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Does not include murals, paintings and other works of art that are not intended to advertise or identify any business or product. Types of signs include the following.

1. **A-Board Sign.** A portable "a-frame" or "sandwich board" sign.

2. **Abandoned Sign.** A sign that no longer advertises a business, lessor, owner, product, service or activity on the premises where the sign is displayed.

3. **Animated or Moving Sign.** A sign which uses movement, lighting, or special materials to depict action or create a special effect to imitate movement.

4. **Awning Sign.** A sign copy or logo attached to or painted on an awning.

5. **Banner, Flag, or Pennant.** Cloth, bunting, plastic, paper, or similar non-rigid material used for advertising purposes attached to a structure, staff, pole, line, framing, or vehicle, not including official flags of the United States, the State of California, and other states of the nation, counties, municipalities, official flags of foreign nations and nationally or internationally recognized organizations.

6. **Bench Sign.** Copy painted on a portion of a bench.

7. **Cabinet Sign (Can Sign).** A sign with its text and/or logo symbols and artwork on a translucent face panel that is mounted within a metal frame or cabinet that contains the lighting fixtures which illuminate the sign face from behind.

8. **Changeable Copy Sign.** A sign designed to allow the changing of copy through manual, mechanical, or electrical means including time and temperature.

9. **Directional Sign.** A sign that is designed and erected solely for the purposes of directing vehicular and/or pedestrian traffic within a project.

10. **Directory Sign.** A sign for listing the tenants and their suite numbers of a multiple tenant structure or center.

11. **Double-Faced Sign.** A sign constructed to display its message on the outer surfaces of two identical and/or opposite parallel planes.

12. **Electronic Reader Board Sign.** A sign with a fixed or changing display composed of a series of lights, but not including time and temperature displays.

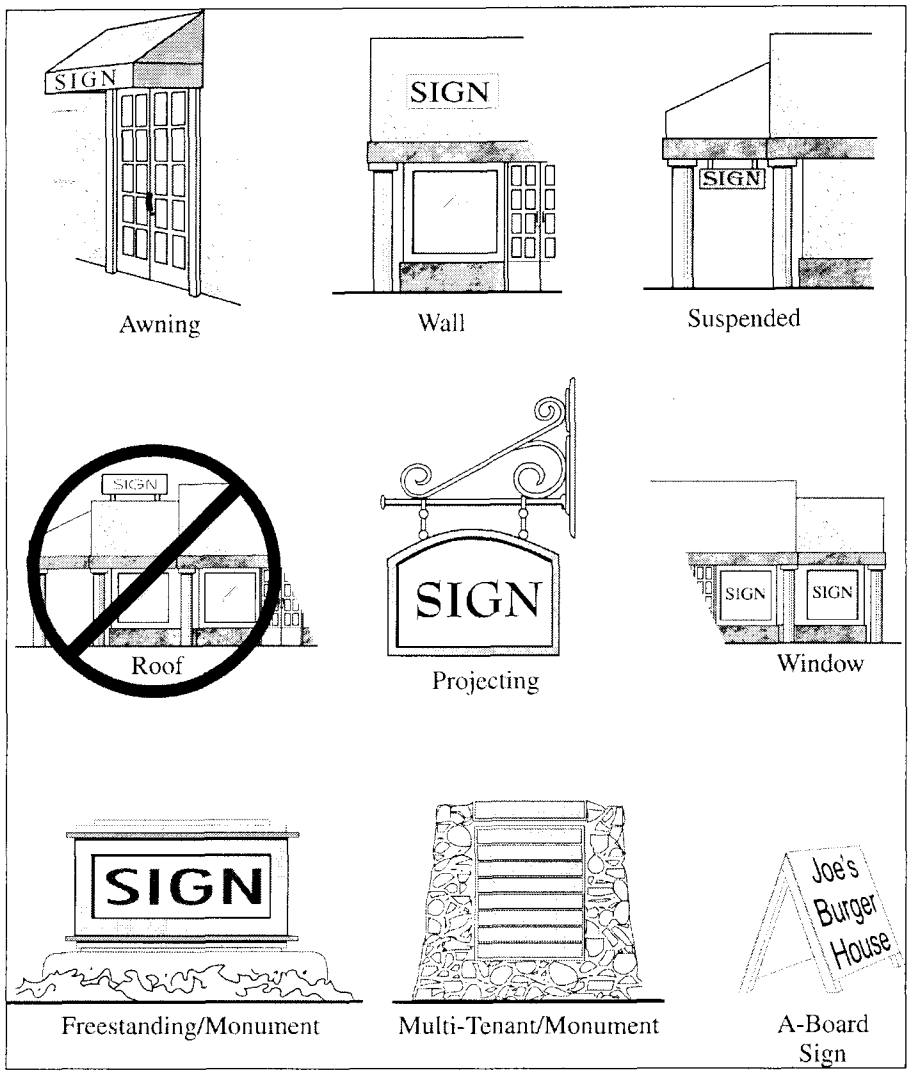

Figure 10-5 – Sign Examples

13. **Flashing Sign.** A sign that contains an intermittent or sequential flashing light source.

14. **Freestanding Sign.** A sign fixed in an upright position on the ground not attached to a structure other than a framework, pole or device, erected primarily to support the sign. Includes monument signs and pole signs.

15. **Illegal Sign.** A sign that includes any of the following:

    a. A sign erected without complying with all regulations in effect at the time of its construction or use;

    b. A sign that was legally erected, but whose use has ceased, the structure upon which the display is placed has been abandoned by its owner, or the sign is not being used to identify or advertise an ongoing business for a period of not less than 90 days;

    c. A sign that was legally erected which later became nonconforming as a result of the adoption of an ordinance, the amortization period for the display provided by the ordinance rending the display conforming has expired, and conformance has not been accomplished;

d. A sign that was legally erected which later became nonconforming and then was damaged to the extent of 50 percent or more of its current replacement value;

e. A sign which is a danger to the public or is unsafe;

f. A sign which is a traffic hazard not created by relocation of streets or highways or by acts of the City; or

g. A sign that pertains to a specific event, and five days have elapsed since the occurrence of the event.

16. **Indirectly Illuminated Sign.** A sign whose light source is external to the sign and which casts its light onto the sign from some distance.

17. **Internally Illuminated Sign.** A sign whose light source is located in the interior of the sign so that the rays go through the face of the sign, or light source which is attached to the face of the sign and is perceived as a design element of the sign.

18. **Marquee (Canopy) Sign.** A sign which is attached to or otherwise made a part of a permanent roof-like structure which projects beyond the building wall in the form of a large canopy to provide protection from the weather.

19. **Monument Sign.** An independent, freestanding structure supported on the ground having a solid base as opposed to being supported by poles or open braces.

20. **Multi-Tenant Sign.** An identification sign for a commercial site with multiple tenants, displaying the names of each tenant on the site.

21. **Nonconforming Sign.** An advertising structure or sign which was lawfully erected and maintained prior to the adoption of this Land Use and Development Code, but does not now completely comply with current regulations.

22. **Off-Site Directional Sign.** A sign identifying a publicly owned facility, emergency facility, or a temporary subdivision sign, but excluding real estate signs.

23. **Off-Site Sign.** A sign identifying a use, facility, service, or product that is not located, sold, or manufactured on the same premise as the sign, or that identifies a use, service, or product by a brand name which, although sold or manufactured on the premise, is not a principal item for sale or manufactured on the premise.

24. **Permanent Sign.** A sign constructed of durable materials and intended to exist for the duration of time that the use or occupant is located on the premises.

25. **Political or Social Issue Sign.** A sign that addresses:

a. The passage or defeat of a measure appearing on the ballot in any national, state, or local election;

b. The election or defeat of any candidate for any public office in any national, state, or local election; or

c. An international, national, state, or local political or social issue.

26. **Pole/Pylon Sign.** An elevated freestanding sign, typically supported by one or two poles or columns.

27. **Portable Sign.** A sign that is not permanently affixed to a structure or the ground.

28. **Projecting Sign.** A sign other than a wall sign suspending from, or supported by, a structure and projecting outward.

29. **Real Estate Sign.** A sign indicating that a property or any portion thereof is available for inspection, sale, lease, rent, or directing people to a property, but not including temporary subdivision signs.

30. **Roof Sign.** A sign constructed upon or over a roof, or placed so as to extend above the edge of the roof.

31. **Temporary Sign.** A sign intended to be displayed for a limited period of time and capable of being viewed from a public right-of-way, parking area or neighboring property.

32. **Vehicle Sign.** A sign which is attached to or painted on a vehicle which is parked on or adjacent to any property, the principal purpose of which is to attract attention to a product sold or business located on the property.

33. **Wall Sign.** A sign which is attached to or painted on the exterior wall of a structure with the display surface of the sign approximately parallel to the building wall.

34. **Window Sign.** A sign posted, painted, placed, or affixed in or on a window exposed to public view. An interior sign which faces a window exposed to public view and is located within three feet of the window.

Sign Area. See Section 18.38.060.A (General Requirements for All Signs - Sign area measurement).

Sign Height. See Section 18.38.060.B (General Requirements for All Signs - Sign height measurement).

Significant Material. Any substance including: garbage and debris; lawn clippings, leaves, and other vegetation; biological and fecal waste; mortar; sediment and sludge; manure and other fertilizers, pesticides, oil, grease; gasoline; paints, solvents, cleaners, and any fluid or solid containing toxic or nontoxic chemicals, or heavy metals; used batteries; or anything that contains such significant materials or to which such significant materials may attach.

Single-Family Dwelling. A building designed for and/or occupied exclusively by one family. Also includes factory-built, modular housing units, constructed in compliance with the Uniform Building Code (UBC), and mobile homes/manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of 1974, placed on permanent foundation systems.

Site. A parcel or adjoining parcels under single ownership or single control, considered a unit for the purposes of development or other use.

Site Coverage. The percentage of total site area occupied by structures, sidewalks, paved driveways, and other impervious surfaces.

Small Family Day Care Home. See "Day Care."

Social Service Organization. A public or quasi-public establishment providing social and/or rehabilitation services, serving persons with social or personal problems requiring special services, the handicapped, and the otherwise disadvantaged. Examples of this land use include: counseling centers, welfare offices, job counseling and training centers, or vocational rehabilitation agencies. Includes organizations soliciting funds to be used directly for these and related services, and establishments engaged in community improvement and neighborhood development. Does not include day-care services, emergency shelters and transitional housing, or "Residential Care," which are separately defined.

Soil. Naturally occurring superficial deposits overlying bedrock.

Soils Engineer (Geotechnical Engineer). An engineer experienced and knowledgeable in the practice of soils (geotechnical) engineering.

Soils Engineering. The application of the principles of soils mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection or testing of the construction thereof.

Sports and Entertainment Assembly. A large-scale indoor or outdoor facility accommodating spectator-oriented sports, concerts, and other entertainment activities. Examples of this land use include amphitheaters, race tracks, stadiums and coliseums. May also include commercial facilities customarily associated with the above uses, including bars and restaurants, gift shops, video game arcades, etc.

Sports and Active Recreation Facility. Public and private facilities for various outdoor sports and other types of recreation, where the facilities are oriented more toward participants than spectators. Examples include:

athletic/sport fields (e.g., baseball, football, softball, soccer)
health and athletic club outdoor facilities
skateboard parks
swimming pools
tennis and other sport courts (e.g., handball, squash)

Storm Drain System. Publicly-owned facilities operated by the City by which storm water is collected and/or conveyed, including any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures which are within the City and are not part of a publicly owned treatment works as defined at 40 CFR Section 122.2.

~~**Storm Water**~~ **Stormwater**. Any surface **water** flow, runoff, ~~and~~ **or** drainage ~~consisting entirely of water from rain storm events~~ **which originates from precipitation (i.e., rainfall or snowmelt)**.

Storage - Accessory. The indoor storage of materials accessory and incidental to a primary use is not considered a land use separate from the primary use.

Storage - Outdoor. The storage of various materials outside of a structure other than fencing, either as an accessory or primary use.

Storage - Personal Storage Facility. Structures containing generally small, individual, compartmentalized stalls or lockers rented as individual storage spaces and characterized by low parking demand.

Storage - Warehouse, Indoor Storage. Facilities 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 ("Storage - Personal Storage Facility"); warehouse facilities primarily used for wholesaling and distribution (see "Wholesaling and Distribution"); or terminal facilities for handling freight (see "Freight Terminal").

Street. A public thoroughfare accepted by the City, which affords principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except an alley as defined in this Subsection.

Structure. Anything constructed or erected, the use of which requires attachment to the ground or attachment to something located on the ground. For the purposes of this Land Use and Development Code, the term "structure" includes "buildings," but does not include swimming pools.

Studio - Art, Dance, Martial Arts, Music, etc. Small scale facilities, typically accommodating one group of students at a time, in no more than one instructional space. Larger facilities are included under the definition of "Schools -

Specialized education and training." Examples of these facilities include: individual and group instruction and training in the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; martial arts training studios; gymnastics instruction, and aerobics and gymnastics studios with no other fitness facilities or equipment. Also includes production studios for individual musicians, painters, sculptors, photographers, and other artists.

Studio Unit. A residential unit where living and sleeping space is combined in a single room.

Subdivision. The division, by any subdivider, of any unit or portion of land shown on the latest equalized Mendocino County assessment roll as a unit or contiguous units, for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way. Subdivision includes the following, as defined in Civil Code Section 1715: a condominium project; a community apartment project; or the conversion of five or more existing dwelling units to a stock cooperative.

Subdivision Improvements. Subdivision improvements include but are not limited to streets, storm drainage facilities, sanitary sewers, water supply facilities, electric and gas lines.

Subdivision Map Act, or Map Act. Division 2, Title 7 of the California Government Code, commencing with Section 66410 as presently constituted, and any amendments to those provisions.

T. Definitions, "T."

Telecommunications Facility. Public, commercial and private electromagnetic and photoelectrical transmission, broadcast, repeater and receiving stations for radio, television, telegraph, telephone, data network, and wireless communications, including commercial earth stations for satellite-based communications. Includes antennas, commercial satellite dish antennas, and equipment buildings. Does not include telephone, telegraph and cable television transmission facilities utilizing hard-wired or direct cable connections. The following terms and phrases are defined for the purposes of Chapter 18.44 (Telecommunications Facilities).

1. **Antenna.** Any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves or radio frequency signals.

2. **Colocation.** The location of two or more wireless, hard wire, or cable communication facilities on a single support structure or otherwise sharing a common location. Collocation shall also include the location of communication facilities with other facilities (e.g., water tanks, light standards, and other utility facilities and structures).

3. **Communication Facility.** An unstaffed facility, generally consisting of antennas, and equipment cabinet or structure, and related equipment, which receives and/or transmits electromagnetic waves, light waves, radio frequencies or other types of signals.

4. **Equipment Cabinet.** A cabinet or structure used to house equipment associated with a wireless, hard wire, or cable communication facility.

5. **Monopole.** A single freestanding pole, post, or similar structure, used to support equipment associated with a single communication facility.

6. **Multipoint Distribution Service.** A microwave communication service that delivers video programming, data and/or voice communication directly to subscribers, including multi-channel multipoint distribution series, instructional television fixed services, and local multipoint distribution services, or as defined by the Section 207 of the Telecommunications Act of 1996, Section 1.4000 of Title 47 of the Code of Federal Regulations and any interpretative decisions thereof issued by the Federal Communications Commission.

7. **Service Provider.** Any authorized provider of communication services.

8. **Tower.** Any ground or roof mounted pole, spire, structure, or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna or similar apparatus above grade.

Temporary Structure. A structure without any foundation or footings, and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Temporary Use. A use of land that is designed, operated and occupies a site for a limited time, typically less than 12 months.

Tenant. A person renting or leasing a housing unit or non-residential space.

Terrestrial Vegetation. Native plants common to areas away from riparian features or the ocean.

Theater. A commercial indoor facility for group entertainment, other than sporting events. Examples of these facilities include:

civic theaters, and facilities for "live" theater and concerts
movie theaters

See also "Meeting Facility, Public or Private," and "Sports and Entertainment Assembly."

Top of Creek Bank. The uppermost ground elevation paralleling a creek or watercourse where the gradient changes from a more defined vertical component to more horizontal.

Transit Station or Terminal. A passenger station for vehicular, and rail mass transit systems; also terminal facilities providing maintenance and service for the vehicles operated in the transit system. Includes buses, taxis, railway, etc.

U. Definitions, "U."

Unit Owner, or Owner. The holder of record fee title to an affordable unit. "Unit owner" includes a contract purchaser ("vendee") under an installment land contract.

Use. See "Land Use."

Use, Primary. See "Primary Use."

Urban Runoff. Any surface water flow produced by non-stormwater resulting from residential, commercial, and industrial activities involving the use of potable and non-potable water.

~~Urban~~ Runoff Mitigation Plan. A ~~Plan~~ **post-construction drainage and polluted runoff control plan,** which shall be required ~~to be approved in connection with~~ **for approval of** any new development. ~~Any such plan shall achieve 20 percent reduction of the projected runoff for the site.~~ **This plan shall specify long-term Site Design, Source Control, and, if necessary, Treatment Control BMPs that will be implemented to minimize polluted runoff after construction, and shall include the monitoring and maintenance plans for these BMPs.**

Utility Facility. A fixed-base structure or facility serving as a junction point for transferring electric utility services from one transmission voltage to another or to local distribution and service voltages, and similar facilities for water supply and natural gas distribution. These uses include any of the following facilities that are not exempted from planning permit requirements by Government Code Section 530171:

corporation and maintenance yards.
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").

Utility Infrastructure. Pipelines for 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. Does not include offices or service centers (see "Offices - Business and Service"), or distribution substations (see "Utility Facility").

V. Definitions, "V."

Vehicle Services. The repair, servicing, alteration, restoration, towing, painting, cleaning, 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 the following categories.

1. **Major Repair/Body Work.** These establishments include towing, collision repair, **engine repair (such as brake jobs, transmission work, etc.),** other body work, and painting services; tire recapping. **[*CITY REQUESTED MOD*]**

2. **Minor Maintenance/Repair.** Minor facilities providing limited repair and maintenance services. Examples include: attended and self-service car washes; detailing services; muffler and radiator shops; quick-lube services; tire and battery sales and installation (not including recapping).

Does not include automobile parking (see "Parking Facilities"), repair shops that are part of a vehicle dealership on the same site (see "Auto and Vehicle Sales and Rental," and "Mobile Home, RV, and Boat Sales and Rental"); gas stations, which are separately defined; or dismantling yards, which are included under "Recycling - Scrap and Dismantling Yards."

Vehicle Storage. A facility for the storage of operative cars and other fleet vehicles, trucks, buses, recreational vehicles, and other motor vehicles. Includes facilities for the storage and/or servicing of fleet vehicles. Does not include public or private parking lots; or dismantling yards (classified in "Recycling - Scrap and Dismantling Yards").

Veterinary Clinic, Animal Hospital. Office and indoor medical treatment facilities used by veterinarians, including large and small animal veterinary clinics, and animal hospitals. See also "Kennel, Animal Boarding."

Video Rental. See "General Retail," and "Adult Entertainment Business."

W. Definitions, "W."

Warehouse. See "Storage - Warehouse, Indoor Storage."

Waters of the United States. Surface watercourses and water bodies as defined at 40 CFR § 122.2. including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons.

Wholesaling and Distribution. An establishment engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Examples of these establishments include:

agents, merchandise or commodity brokers, and commission merchants
assemblers, buyers and associations engaged in the cooperative marketing of farm products
merchant wholesalers
stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment.

Also includes storage, processing, packaging, and shipping facilities for mail order and electronic-commerce retail establishments.

Wine Tasting. A facility, or area within a winery where wine and related products are offered for retail sale, where wine may be tasted for a fee, or without charge.

Winery. A manufacturing facility where wine grapes are crushed, and their juice is fermented, aged, bottled, and sold at wholesale as finished wine. May include tasting and accessory retail sales of wine produced on site.

X. Definitions, "X."

No specialized terms beginning with the letter "X" are defined at this time.

Y. Definitions, "Y."

Yard. An area between a lot line and a structure, unobstructed and unoccupied from the ground upward, except for projections permitted by this Land Use and Development Code. See also "Setback," and Section 18.30.100 (Setback Requirements and Exceptions).

1. **Front Yard.** An area extending across the full width of the lot between the front lot line and the primary structure.

2. **Rear Yard.** An area extending the full width of the lot between a rear lot line and the primary structure.

3. **Side Yard.** An area between a side lot line and the primary structure extending between the front and rear yards.

Z. Definitions, "Z."

Zero Lot Line. The location of a building on a lot in such a manner that one or more building sides rests directly on a lot line.

Zoning District. Any district established by Section 18.14 (Zoning Map), within which certain land uses are allowed or prohibited, and certain site planning and development standards are established (e.g., setbacks, height limits, site coverage requirements, etc.).