ARCATA LCP AMENDMENT NO. ARC-MAJ-1-09

EXHIBIT 13

PROPOSED AMENDED IP (565 PAGES)

CITY OF ARCATA

LAND USE CODE

Municipal Code - Title 9

OCTOBER 2008

LAND USE CODE
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Land Use Code Applicability

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9.10.030 - Responsibility for Administration
9.10.040 - Applicability of the Land Use Code
9.10.050 - Rules of Interpretation

9.10.010 - Purposes of Land Use Code

Title 9 of the Arcata Municipal Code constitutes the City of Arcata Land Use Code, hereafter referred to as "this Land Use Code." These regulations carry out the policies of the Arcata General Plan and Local Coastal Program by classifying and regulating the uses of land and structures within the City, consistent with the General Plan and the Local Coastal Program. This Land Use Code is adopted to protect and to promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents, and businesses in the City. More specifically, the purposes of this Land Use Code are to:

A. Provide standards and guidelines for the continuing orderly growth and development of the City that will assist in protecting the character and community identity of Arcata;

B. Conserve and protect the City's natural beauty and setting, including waterways, hills and trees, scenic vistas, and 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 bicycle/ pedestrian-oriented development, safe, calm and effective traffic circulation, and adequate off-street parking facilities; and

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

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

A. Authority. The regulations within this Land Use Code are enacted based on the authority vested in the City of Arcata 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 Land Use Code is a primary implementation tool used by the City to carry out the goals, objectives, and policies of the Arcata General Plan and Local Coastal Program (LCP). The Arcata City Council intends that all provisions of this Land Use Code be consistent with the General Plan and Local Coastal Program, and that any land use, subdivision, or development approved in compliance with these regulations will also be consistent with the General Plan and Local Coastal Program (where applicable).

C. LCP provisions. The following provisions of this Land Use Code constitute the City's ordinances for the implementation of the Arcata LCP, in compliance with the California Coastal Act:

Article 1 - Land Use Code Applicability
Article 2 - Zoning Districts and Allowable Land Uses
Article 5 - Resource Management
Article 6 - Site Development Regulations
Section 9.72.030 - Coastal Permit
Section 9.72.050 - Emergency Permit
Chapter 9.74 - Public Hearings
Chapter 9.76 - Appeals
Chapter 9.79 - Permit Implementation, Time Limits and Extensions
Chapter 9.92 - Amendments

9.10.030 - Responsibility for Administration

A. Responsible bodies and individuals. This Land Use Code shall be administered by: the Arcata City Council, hereafter referred to as the "Council;" the Planning Commission; the Community Development Director, referred to as the "Director;" the Zoning Administrator (who shall be the Director or the designee of the Director); the Historic and Design Review Commission, referred to as “HDRC;” the Environmental Coordinator (who shall be the Director or the designee of the Director, such as the Public Works Director, the Director of Environmental Services, or a Senior Planner); and the Community Development Department, hereafter referred to as the "Department."

B. Exercise of discretion. In the event that a provision of this Land Use Code allows the review authority for a permit or other decision to exercise discretion in the application of a specific standard or requirement, but does not identify specific criteria for a decision, no discretion shall be exercised unless the review authority shall first make all of the following findings:

1. The proposed project complies with all applicable provisions of this Land Use 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 Land Use 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 and Local Coastal Program.

9.10.040 - Applicability of the Land Use Code

This Land Use Code applies to all land uses, subdivisions, and development within the City of Arcata, as follows.

A. New land uses or structures, changes to land uses or structures. It shall be unlawful, and a violation of this Land Use 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 9.20.020 (General Requirements for Development and New Land Uses), and Chapter 9.90 (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 Land Use Code.

B. Subdivisions. Any subdivision of land proposed within the City after the effective date of this Land Use 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 Land Use Code.

C. Continuation of an existing land use. An existing land use is lawful and not in violation of this Land Use Code only when operated and maintained in compliance with all applicable provisions of this Land Use Code, including Chapter 9.90 (Nonconforming Uses, Structures, and Parcels). However, the requirements of this Land Use Code are not retroactive in their effect on a land use that was lawfully established before the effective date of this Land Use Code or any applicable amendment, except as otherwise provided by Chapter 9.90.

D. Effect of Land Use 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 Land Use 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 the effective date of this Land Use Code or any amendment, need not be changed to satisfy any new or different requirements of this Land Use 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 Land Use Code shall be minimum requirements for the promotion of the public health, safety, and general welfare. When this Land Use 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 Land Use 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 Land Use Code.

F. Conflicting requirements:

1. Land Use Code and Municipal Code provisions. If conflicts occur between requirements of this Land Use Code, or between this Land Use Code and the Arcata 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 Land Use Code and standards adopted as part of any development agreement or applicable specific plan, the requirements of the development agreement or specific plan shall apply.

3. Private agreements. This Land Use 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, State, and Local agencies.

1. Development or new land uses proposed by federal, state, or local agencies (e.g., school districts) within the City shall comply with the requirements of this Land Use Code to the maximum extent allowed by applicable federal or state laws.

2. Federal agencies are not subject to the provisions and permit requirements of this Land Use Code, the City's Local Coastal Program, or the permit requirements of the Coastal Commission, but are subject to the consistency process provided by the federal Coastal Zone Management Act of 1972 (CZMA). Non-federal development on federal lands may be subject to both the CZMA consistency process and the requirements of this Land Use Code and the Coastal Commission.

H. Other requirements may apply. Nothing in this Land Use 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.

9.10.050 - Rules of Interpretation

A. Authority. The Zoning Administrator has the authority to interpret any provision of this Land Use Code. Whenever the Zoning Administrator determines that the meaning or applicability of any Land Use Code requirement is subject to interpretation, the Zoning Administrator may issue an official interpretation. The Zoning Administrator may also refer any issue of interpretation to the Planning Commission or HDRC, as appropriate for their determination. Interpretations may be appealed in compliance with Chapter 9.76 (Appeals).

B. Language. When used in this Land Use 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 . . ."

C. Time limits. Whenever a number of days is specified in this Land Use Code, or in any permit, condition of approval, or notice provided in compliance with this Land Use Code, the number of days shall be construed as calendar days. 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 or holiday.

D. Zoning Map boundaries. See Section 9.12.020 (Zoning Map and Zoning Districts).

E. Allowable uses of land. See Section 9.20.030 (Allowable Land Uses and Permit Requirements).

F. State law requirements. Where this Land Use Code references applicable provisions of State law (for example, the California Government Code, California 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.

CHAPTER 9.12 - ZONING MAP

Sections:

9.12.010 - Purpose
9.12.020 - Zoning Map and Zoning Districts
9.12.030 - Land Use Plan Map

9.12.010 - Purpose

This Chapter establishes the zoning districts applied to property within the City and adopts the City's Zoning Map, Land Use Plan Map, and Coastal Zone Boundaries maps.

9.12.020 - Zoning Map and Zoning Districts

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

A. Zoning districts established. The City of Arcata shall be divided into zoning districts that implement the Arcata General Plan. The zoning districts shown in Table 1-1 are hereby established, and shall be shown on the Zoning Map. The purposes and requirements of each zoning district are in Article 2 (Zoning Districts and Allowable Land Uses).

B. Interpretation of zoning district boundaries. If there is uncertainty about the location of any zoning district boundary shown on the Zoning Map, the Zoning Administrator shall determine the location of the boundary, as follows.

1. Where a boundary approximately follows alley or street lines, the street or alley center line shall be construed to be the boundary;

2. Where a boundary approximately follows lot lines, the lot lines shall be construed to be the boundary;

3. If a 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; provided that when unsubdivided acreage is subdivided, the location of the zoning boundary that divided the acreage shall be construed to be a new lot line or street center line within 20 feet of the location of the boundary, according to the scale of the map; and

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

C. Zoning Map amendments. Any amendment to the Zoning Map shall comply with Chapter 9.92 (Amendments).

TABLE 1-1 - ZONING DISTRICTS

Zoning District Symbol	Name of Zoning District	General Plan Designation Implemented by Zoning District
Agricultural and Resource Districts		
AE	Agricultural - Exclusive	Agricultural - Exclusive
AR	Agricultural - Residential	Agricultural - Residential
NR-TP	Natural Resource - Timber Production	Natural Resource - TP
NR-PT	Natural Resource - Public Trust	Natural Resource - PT
Residential Districts		
RVL	Residential - Very Low Density	Residential - Very Low Density
RL	Residential - Low Density	Residential - Low Density
RM	Residential - Medium Density	Residential - Medium Density
RH	Residential - High Density	Residential - High Density
Commercial Districts		
CC	Commercial - Central	Commercial - Central
CG	Commercial - General	Commercial - General
CV	Commercial - Visitor Serving	Commercial - Visitor Serving
CM	Commercial - Mixed Use Center	Commercial - Mixed Use Center
Industrial and Public Facility Districts		
IL	Industrial - Limited	Industrial - Limited
IG	Industrial - General	Industrial - General
PF	Public Facility	Public Facility

Zoning District Symbol	Name of Zoning District	General Plan Designation Implemented by Zoning District
Combining Zones		
:CZ	Coastal Zone	All
:HL	Historic Landmark	All
:NH	Natural Hazards	All
:NCA	Neighborhood Conservation Area	All
:PA	Plaza Area	Commercial - Central
:PD	Planned Development	All
:SCA :SCNR :SCR :SCC :SCI :SCP	Special Considerations - Agricultural Special Considerations - Resource Special Considerations - Residential Special Considerations - Commercial Special Considerations - Industrial Special Considerations - Public Facility	Agricultural Natural Resource Residential Commercial Industrial Public Facility
:WP	Wetland Protection	Natural Resource - WSP
:SP	Stream Protection	Natural Resource - WSP

9.12.030 - Land Use Plan Map

A. Land Use Plan Map adopted. The official City map entitled "City and Sphere of Influence Land Use Plan Map" is hereby adopted, and incorporated into this Land Use Code by reference as though it were fully included here. This map supersedes and replaces the maps adopted by Ordinances 1071 and 1151, and all subsequent amendments to those maps.

B. Purpose and effect of Land Use Plan Map. The purpose and effect of this map is to show, for the unincorporated territory within the City's Sphere of Influence adopted by the Humboldt County Local Agency Formation Commission, the potential zoning districts of this Land Use Code that the City intends to apply to the parcels that may be eventually annexed to the City. The land use designations shown on the Land Use Plan Map shall be effective immediately upon the annexation of each subject parcel to the City per Sections 9.92.060 and 9.94.040 of this Land Use Code.

C. Amendments. Amendments to the Land Use Plan Map shall comply with the criteria and procedures in Chapters 9.92 (Amendments), and 9.94 (Annexation).

ARTICLE 2

Zoning Districts & Allowable Land Uses

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CHAPTER 9.20 -DEVELOPMENT AND LAND USE APPROVAL REQUIREMENTS

Sections:

9.20.010 - Purpose
9.20.020 - General Requirements for Development and New Land Uses
9.20.030 - Allowable Land Uses and Permit Requirements
9.20.040 - Exemptions from Planning Permit Requirements

9.20.010 - Purpose

This Chapter describes the City's requirements for the approval of proposed development and new land uses. The permit requirements established by this Land Use Code for specific land uses are in Chapters 9.22 through 9.28.

9.20.020 - General Requirements for Development and New Land Uses

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

A. Allowable use. The land use shall be allowed by this Land Use Code in the zoning district applied to the site. The basis for determining whether a use is allowable is described in Section 9.20.030 (Allowable Land Uses and Permit Requirements).

B. Permit and approval requirements. Any planning permit or other approval required by Section 9.20.030 (Allowable Land Uses and Permit Requirements) 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 9.20.040 (Exemptions from Planning Permit Requirements).

C. Development standards, conditions of approval. Each land use and structure shall comply with the development standards of this Chapter, the provisions of Article 3 (Site Planning and Project Design Standards), and any applicable conditions imposed by a previously granted planning permit.

D. Legal parcel. The site of a proposed development or new land use shall be a parcel that was legally created in compliance with the Subdivision Map Act and the City's Subdivision Ordinance.

9.20.030 - Allowable Land Uses and Permit Requirements

A. Allowable land uses. The uses of land allowed by this Land Use Code in each zoning district are listed in Chapters 9.22, 9.24, and 9.26 (Tables 2-1, 2-4, and 2-10, respectively), together with the type of planning permit required for each use. Each land use listed in Tables 2-1, 2-4, and 2-10 is defined in Article 10 (Glossary).

1. Establishment of an allowable use.

a. Any one or more land uses identified by Tables 2-1, 2-4, and 2-10 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 this Land Use Code.

b. Where a single parcel is proposed for development with two or more of the land uses listed in the tables, the overall project shall be subject to the highest permit level required by Subsection B. for any individual use. For example, multi-use building proposed with a permitted use on the second floor and a use requiring Use Permit approval on the ground floor would require Use Permit approval.

2. Use not listed.

a. A land use that is not listed in Tables 2-1, 2-4, or 2-10, and is determined by the Zoning Administrator 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 9.20.040 (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 9.20.040.

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

a. Required findings. The Zoning Administrator may determine that a proposed use is similar to, and compatible with a listed use and may be allowed, only after first finding that:

(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 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.

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

b. Applicable standards and permit requirements. When the Zoning Administrator determines that a proposed, but unlisted use is similar 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 Land Use Code apply.

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

d. Appeal. A determination of similar and compatible use may be appealed in compliance with Chapter 9.76 (Appeals).

B. Permit requirements. Tables 2-1, 2-4, and 2-10 within Chapters 9.22, 9.24, and 9.26 provide for land uses that are:

1. Permitted subject to compliance with all applicable provisions of this Land Use Code, subject to first obtaining a Zoning Clearance (Section 9.72.100). These are shown as "P" uses in the tables;

2. Allowed subject to Minor Use Permit approval (Section 9.72.080), and shown as "MUP" uses in the tables;

3. Allowed subject to Use Permit approval (Section 9.72.080), and shown as "UP" uses in the tables;

4. Allowed subject to the type of City approval required by a specific provision of Chapter 9.42 (Standards for Specific Land Uses), and shown as "S" uses in the tables; and

5. Not allowed in a particular zoning district, and shown as "—" uses in the tables.

Note: a land use authorized through the approval of a Zoning Clearance, Minor Use Permit, or Use Permit may also require Design Review approval (Section 9.72.040), a Coastal Permit (Section 9.72.030), a Building Permit, and/or other permit required by the Municipal Code.

9.20.040 - Exemptions from Planning Permit Requirements

The planning permit requirements of this Land Use 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.

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 Land Use Code only when:

1. The use, activity or structure is established and operated in compliance with the setback requirements, height limits, parking requirements, and all other applicable standards of this Article (Zoning Districts and Allowable Land Uses), Article 3 (Site Planning and Project Design Standards) and, where applicable, Chapter 9.90 (Nonconforming Uses, Structures, and Parcels);

2. No Coastal Permit is required by Section 9.72.030;

3. Any permit or approval required by regulations other than this Land Use Code is obtained (for example, a Building Permit); and

4. The site is not within a :WP (Wetland Protection) or :SP (Stream Protection) combining zone.

B. Exempt activities and land uses. The following are exempt from the planning permit requirements of this Land Use Code when in compliance with Subsection A. above.

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 9.30.030 (Fences, Walls, and Screening).

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 and 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 9.42.030 (Accessory 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.

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 9.44 (Telecommunications Facilities).

CHAPTER 9.22 -AGRICULTURAL AND RESOURCE ZONING DISTRICTS

Sections:

9.22.010 - Purpose
9.22.020 - Purposes of the Agricultural and Resource Zoning Districts
9.22.030 - Agricultural and Resource District Allowable Land Uses
9.22.040 - Agricultural and Resource District Parcel and Density Standards
9.22.050 - Agricultural and Resource District Site Planning and Building Standards
9.22.060 - Agricultural and Resource District Land Use Limitations
9.22.070 - Agricultural and Resource Special Considerations

9.22.010 - Purpose

This Chapter lists the land uses that may be allowed within the agricultural and resource zoning districts established by Section 9.12.020 (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.

9.22.020 - Purposes of the Agricultural and Resource Zoning Districts

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

A. AE (Agriculture Exclusive) district. The AE zoning district is applied to areas appropriate for agricultural uses such as horticulture and crop production, orchards, nurseries, vineyards, and livestock grazing, where the City intends that the land be preserved for agricultural production, and where residential use is accessory to agricultural production. The AE zoning district is consistent with and implements the Agriculture Exclusive land use classification of the General Plan.

B. AR (Agriculture Residential) district. The AR zoning district is applied to areas of agricultural lands that are also appropriate for very low density residential uses. The AR zoning district is consistent with and implements the Agriculture Residential land use classification of the General Plan.

C. NR (Natural Resource) district. The NR zoning district is applied to public or private lands where the protection of unique and/or sensitive natural resources, or the managed production of resources are the City's primary objectives. The NR district is separated into two sub-districts: Timber Production (NR-TP), and Public Trust (NR-PT). The NR zoning district is consistent with and implements the Natural Resource land use classification of the General Plan.

9.22.030 - Agricultural and Resource District Allowable Land Uses

A. **Allowable uses and planning permit requirements.** Table 2-1 identifies the uses of land allowed by this Land Use Code in each agricultural and resource zoning district, and the planning permit required to establish each use, in compliance with Section 9.20.030 (Allowable Land Uses and Permit Requirements).

B. **Allowable uses within the Coastal Zone.** The land uses identified by Table 2-1 as allowable in each agricultural and resource zoning district are also allowed within the Coastal Zone, except where the land uses allowed in the Coastal Zone are separately listed (as in the case of the AE zoning district). Land uses proposed on diked or otherwise reclaimed former tidelands are also subject to the limitations in Section 9.22.060 (Agricultural and Resource District Land Use Limitations).

C. **Additional City approval requirements.** Any land use identified as allowable by Table 2-1 may require Design Review (Section 9.72.040), a Coastal Permit (Section 9.72.030), and/or a building permit in compliance with the Municipal Code, in addition to the planning permit required by Table 2-1.

D. **Standards for specific land uses.** Where the last column in the table ("Specific Use Regulations") includes a section number, the regulations in the referenced section apply to the use. Provisions in other sections of this Land Use Code may also apply.

TABLE 2-1 Allowed Land Uses and Permit Requirements for Agricultural and Resource Zoning Districts	P	Permitted Use, Zoning Clearance required
	MUP	Minor Use Permit required
	UP	Use Permit required
	S	Permit determined by specific use regulations
	—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	AE	AE-CZ	AR	NR-TP	NR-PT	
AGRICULTURAL & OPEN SPACE USES						
Agricultural accessory structure, 4,000 sf or less	P	P	MUP	MUP	MUP	9.22.060, 9.42.030
Agricultural accessory structure, larger than 4,000 sf	MUP	MUP	MUP	MUP	MUP	
Agricultural cultivation - Medical marijuana	UP	UP	—	—	—	9.42.105
Agricultural processing - Very low impact	P	P	P	P	P	
Agricultural processing - Low impact	MUP	MUP	MUP	MUP	MUP	
Agricultural Processing - Moderate impact	UP	UP	UP	—	—	
Animal keeping	S	S	S	S	S	9.22.060, 9.42.050
Aquaculture - Ocean dependent	—	MUP	—	MUP	MUP	
Commercial greenhouse - Perimeter foundation, 1,000 sf or less	P	MUP	MUP	—	—	
Commercial greenhouse - Perimeter foundation, larger than 1,000 sf	MUP	MUP	MUP	—	—	
Commercial greenhouse - Slab foundation	UP	—	UP	—	—	
Commercial greenhouse - Soil dependent, 1,000 sf or less	P	P	P	—	—	9.22.060
Commercial greenhouse - Soil dependent, larger than 1,000 sf	MUP	MUP	MUP	—	—	
Crop production, horticulture, orchard, vineyard	P(2)	P(2)	P(2)	P(2)	P(2)	9.22.060
Forestry	MUP	—	MUP	P(2)	—	
Nature preserves, habitat and wetland restoration	P(2)	P(2)	P(2)	P(2)	P(2)	9.22.060
Winery	UP	UP	UP	—	—	
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES						
Boat launching facility	—	MUP	—	—	UP	9.22.060
Coastal access trail	P	P	P	—	P	9.22.060
Equestrian facility, maintaining 8 or fewer horses	P	MUP	UP	—	—	9.42.050
Equestrian facility, maintaining 9 or more horses	MUP	MUP	UP	—	—	9.42.050
Interpretive center	—	—	—	UP	UP	9.22.060
Non-vehicular recreation	P	P	P	P	P	9.22.060
Meeting facility, public or private	—	—	UP	UP	UP	
Parks and playgrounds	—	—	MUP	UP	UP	

Key to Zoning District Symbols

AE	Agriculture - Exclusive	NR-TP	Natural Resource - Timber Production
AE-CZ	Agriculture - Exclusive - Coastal Zone	NR-PT	Natural Resource - Public Trust
AR	Agriculture - Residential		

Notes:
(1) See Article 10 for land use definitions.
(2) Zoning Clearance not required.

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

P	Permitted Use, Zoning Clearance required
MUP	Minor Use Permit required
UP	Use Permit required
S	Permit determined by specific use regulations
—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	AE	AE-CZ	AR	NR-TP	NR-PT	
RESIDENTIAL USES						
Farmworker housing for agriculture activities on site	UP	UP	UP	—	—	
Home occupation	P	P	P	P	P	9.42.090
Mobile home - Outside of mobile home park	P	P	P	P	P	9.42.120
Residential accessory use or structure	P	P	P	—	—	9.42.030
Residential care facility, 6 or fewer clients	MUP	MUP	P	—	—	
Second dwelling unit	P	P	P	—	—	9.42.170
Single-family dwelling	P	P	P	P	P	
RETAIL TRADE						
Mobile vendors	MUP	MUP	MUP	MUP	MUP	
Produce stand, 1,000 sf maximum	MUP	MUP	MUP	MUP	MUP	9.42.140F
SERVICES						
Child day care - Large family day care home	P	P	P	P	P	9.42.070C
Child day care - Small family day care home	P	P	P	P	P	
Lodging - Bed & breakfast inn (B&B) inn, 5 or fewer rooms	P	P	P	—	—	9.42.060
Lodging - Bed & breakfast inn (B&B) inn, 6 or more rooms	MUP	MUP	MUP	—	—	9.42.060
Lodging - Campground	—	—	—	UP	UP	
Lodging - Hostel	—	—	—	UP	UP	
TRANSPORTATION, COMMUNICATIONS & INFRASTRUCTURE						
Utility facility	UP	UP	UP	UP	UP	
Utility infrastructure	MUP	MUP	UP	UP	UP	
Windmill for electricity generation	MUP	MUP	UP	UP	UP	9.42.190

Key to Zoning District Symbols

AE	Agriculture - Exclusive	NR-TP	Natural Resource - Timber Production
AE-CZ	Agriculture - Exclusive - Coastal Zone	NR-PT	Natural Resource - Public Trust
AR	Agriculture - Residential		

Notes:
(1) See Article 10 for land use definitions.
(2) Zoning Clearance not required.

9.22.040 - Agricultural and Resource District Parcel and Density Standards

A new subdivision, and the density of residential development shall comply with the requirements shown in Table 2-2.

Table 2-2 - Parcel and Density Standards

Development Standard	Requirement by Zoning District		
	AE	AR	NR-TP, PT
Minimum Lot Area	20 acres 60 acres in Coastal Zone	2.5 acres	20 acres 60 acres in Coastal Zone
Maximum Residential Density	1 dwelling per parcel, plus 1 second unit per parcel	1 dwelling per parcel, plus 1 second unit per parcel	1 dwelling unit per parcel

9.22.050 - Agricultural and Resource 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 Table 2-3, in addition to the applicable standards (e.g., landscaping, parking and loading, etc.) in Article 3 of this Land Use Code.

Table 2-3 - AE, AR, and NR District Standards

Development Standard	AE Zone Requirement	AR Zone Requirement	NR Zone Requirement
Setbacks - *Minimum and, where noted, maximum setbacks required. See Section 9.30.090 for exceptions to these requirements.*			
Front	25 ft	25 ft	25 ft
Side - Interior (each)	10 ft	10 ft	10 ft
Side - Street side	10 ft	10 ft	10 ft
Rear	25 ft	25 ft	25 ft
Accessory structures	See 9.42.030 (Accessory Structures)		
Floor area ratio (FAR) - *Maximum allowable FAR. See the definition and illustration of FAR in Article 10 (Glossary)*			
Maximum FAR	0.10; additional FAR may be authorized through Use Permit approval.	.10	Not Applicable
Height limit - *Maximum allowable height of structures. See Section 9.30.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions.*			
Maximum height	35 ft	35 ft	35 ft
Landscaping - See Chapter 9.34 (Landscaping)			
Parking - See Chapter 9.36 (Parking and Loading)			
Signs - See Chapter 9.38 (Signs)			

9.22.060 - Agricultural and Resource District Land Use Limitations

Land uses within the agricultural and resource zoning districts shall comply with the following limitations, as applicable.

A. Non-vehicular recreation. Private and public non-vehicular recreational activities including hiking, riding, fishing, and other recreational activities that do not require permanent structures, facilities, or foundations may be permitted if they do not interfere with adjacent agricultural and/or resource uses, or limit potential of the site to return to agricultural and/or resource uses, or displace the wildlife utilizing the area, especially in seasonal wetlands.

B. Threshold of review for sensitive habitats.

1. Habitat protection requirements. Proposed development on a site within the NR zoning district or within 250 feet of an Environmentally Sensitive Habitat Area (ESHA), or development potentially affecting another sensitive habitat area, shall comply with the applicable habitat protection policies of the Resource Conservation and Management Element of the General Plan.

2. Application requirements. All proposed development plans, including grading and drainage plans submitted as part of a planning permit application shall show the precise location of all sensitive habitat areas on the site plan.

C. Uses allowed in diked/reclaimed former tidelands. Allowable uses and development in grazed or farmed wetlands shall be limited to the following uses compatible with the Public Trust, and other similar and related uses as determined by the review authority to be appropriate.

1. Agricultural uses or operations limited to accessory structures, apiaries, horticulture and crop production, livestock raising, and orchards.

2. Farm-related structures, including barns, sheds, and farmer-occupied housing, necessary for the performance of agricultural uses or operations. These structures may be located on an existing grazed or farmed wetland parcel only if no alternative upland location is available for this purpose, and each structure is sited and designed to minimize adverse environmental effects on Public Trust resources and uses. The number of dwelling units allowed is determined by Section 9.22.040.

3. Restoration projects.

4. Nature study, aquaculture, and similar resource-dependent activities compatible with the Public Trust resources and uses.

5. Incidental public service purposes which may temporarily impact the resources of the area (such as burying cables or pipes).

9.22.070 - Agricultural and Natural Resource Special Considerations

Proposed Development and new land uses on parcels within the SCA (Special Considerations - Agricultural) or SCNR (Special Considerations - Resource) combining zone shall comply with the following requirements, as applicable, in compliance with General Plan Table LU-10.

SCA Zone	Area	SCA Zone Requirements
1	APN 021-121-010	Provide for agriculture-related manufacturing due to aggregate fill deposits on the Arcata Bay Storage site per PC Resolution 08-09.

CHAPTER 9.24 -RESIDENTIAL ZONING DISTRICTS

Sections:

9.24.010 - Purpose
9.24.020 - Purposes of the Residential Zoning Districts
9.24.030 - Residential District Allowable Land Uses
9.24.040 - Residential District Parcel and Density Standards
9.24.050 - Residential District Site Planning and Building Standards
9.24.060 - Residential District Land Use Limitations
9.24.070 - Residential Special Considerations

9.24.010 - Purpose

This Chapter lists the land uses that may be allowed within the residential zoning districts established by Section 9.12.020 (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.

9.24.020 - 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. RVL (Residential - Very Low Density) district. The RVL zoning district is applied to areas where physical constraints, the protection of natural features, or the preservation of semi-rural character have been identified by the General Plan as important considerations. The RVL zoning district is primarily applied to areas with steep slopes, and where the General Plan intends that the open space character of the City's hillsides and perimeter lands are to be preserved. Individual homesites are allowed in hillside areas, as long as precautions are taken to prevent the excessive removal of vegetation, and strict grading controls are enforced to prevent erosion (see Chapter 9.52 for hillside development standards). The allowable density is two or fewer primary dwellings per acre. The RVL zoning district is consistent with and implements the Residential - Very Low Density land use classification of the General Plan.

B. RL (Residential - Low Density) district. The RL zoning district is applied to areas appropriate for neighborhoods of single-family homes on individual lots, and related, compatible uses. The allowable density ranges from two to 7.25 dwellings per acre. The RL zoning district is consistent with and implements the Residential - Low Density land use classification of the General Plan.

C. RM (Residential - Medium Density) district. The RM zoning district is applied to areas appropriate for a variety of housing types, including small-lot single-family housing, and various types of multifamily housing (for example, duplexes, townhouses, and apartments). The allowable density ranges from 7.26 to 15 dwellings per acre. The RM zoning district is consistent with and implements the Residential - Medium land use classification of the General Plan.

D. RH (Residential - High Density) district. The RH zoning district is applied to areas appropriate for various types of multi-family housing, including duplexes, townhouses, and apartments. The allowable density ranges from 15.01 to 32 units per acre. The RH zoning district is consistent with and implements the Residential - High Density land use classification of the General Plan.

9.24.030 - Residential District Allowable Land Uses

Table 2-4 identifies the uses of land allowed by this Land Use Code in each residential zoning district, and the planning permit required to establish each use, in compliance with Section 9.20.030 (Allowable Land Uses and Permit Requirements).

Note: Where the last column in the table ("Specific Use Regulations") includes a section number, the regulations in the referenced section apply to the use. Provisions in other sections of this Land Use Code may also apply.

TABLE 2-4
Allowed Land Uses and Permit Requirements for Residential Zoning Districts

P	Permitted Use, Zoning Clearance required
MUP	Minor Use Permit required
UP	Use Permit required
S	Permit determined by specific use regulations
—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT				Specific Use Regulations
	RVL	RL	RM	RH	
AGRICULTURAL & OPEN SPACE USES					
Agricultural accessory structure	MUP	UP	UP	UP	9.42.030
Agricultural cultivation - Medical marijuana	—	—	—	—	9.42.105
Animal keeping	S	S	S	S	9.42.050
Crop production, horticulture, orchard, vineyard	MUP	MUP	MUP	MUP	
Greenhouse and nursery structures, 300 sf or less	UP	UP	—	—	
Greenhouse and nursery structures, larger than 300 sf	—	—	—	—	
Produce stand, 1,000 sf maximum	MUP	MUP	MUP	MUP	9.42.140F
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES					
Equestrian facility	UP	—	—	—	9.42.050
Meeting facility, public or private	MUP	MUP	MUP	MUP	
Parks and playgrounds, public	P	P	P	P	
Private residential recreation facility	—	MUP	MUP	MUP	
School - Public or private, elementary or secondary	MUP	MUP	MUP	MUP	
RESIDENTIAL USES					
Home occupation	P	P	P	P	9.42.090
Mobile home - Outside of mobile home park	P	P	P	P	9.42.120
Mobile home park, including individual mobile homes	UP	UP	UP	UP	9.42.120
Multi-family housing, 2 units	—	P	P	P	9.42.130
Multi-family housing, 3 to 9 units	—	MUP(2)	P	P	9.42.130
Multi-family housing, 10 or more units	—	—	P	P	9.42.130
Organizational house (sorority, monastery, religious, etc.)	UP	UP	UP	UP	
Residential accessory use or structure	P	P	P	P	9.42.030
Residential care facility, 6 or fewer clients	P	P	P	P	
Residential care facility, 7or more clients	UP	UP	UP	UP	
Rooming or boarding house	—	UP	P	P	
Second dwelling unit	P	P	P	P	9.42.170
Single-family dwelling	P	P	P	P	
Transitional housing	UP	UP	UP	UP	

Key to Zoning District Symbols

RVL	Residential - Very Low Density	RM	Residential - Medium Density
RL	Residential - Low Density	RH	Residential - High Density

Notes:
(1) See Article 10 (Glossary) for land use definitions.
(2) Allowed only in compliance with Section 9.24.060.B (RL Alternative Development Option).

TABLE 2-4
Allowed Land Uses and Permit Requirements for Residential Zoning Districts

P	Permitted Use, Zoning Clearance required
MUP	Minor Use Permit required
UP	Use Permit required
S	Permit determined by specific use regulations
—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT				Specific Use Regulations
	RVL	RL	RM	RH	
RETAIL TRADE					
Accessory retail	UP	UP	P	P	9.42.020
Convenience store	UP	UP	UP	UP	
SERVICES					
Accessory services	UP	UP	P	P	9.42.020
Child day care - Large or small family day care home	P	P	P	P	9.42.070
Child or adult day care center	MUP	MUP	MUP	MUP	9.42.070
Group Quarters	UP	UP	UP	UP	
Lodging - Bed and breakfast inn (B&B), 5 or fewer rooms	P	P	P	P	9.42.060
Lodging - Bed and breakfast inn (B&B), 6 or more rooms	MUP	MUP	MUP	MUP	9.42.060
Lodging - Hostel	MUP	MUP	MUP	MUP	
Medical services - Extended care	MUP	MUP	MUP	MUP	
Mobile maintenance services	S	S	S	S	9.42.090
TRANSPORTATION, COMMUNICATIONS & INFRASTRUCTURE					
Pipeline, utility transmission or distribution line	UP	UP	UP	UP	
Utility facility	UP	UP	UP	UP	
Utility infrastructure	P	P	P	P	
Windmill for electricity generation	MUP	UP	UP	UP	9.42.190

Key to Zoning District Symbols

RVL	Residential - Very Low Density	RM	Residential - Medium Density
RL	Residential - Low Density	RH	Residential - High Density

Notes:
(1) See Article 10 (Glossary) for land use definitions.

9.24.040 - Residential District Parcel and Density Standards

A new subdivision, and the density of residential development shall comply with the requirements shown in Table 2-5.

Table 2-5 - Parcel and Density Standards

Development Standard	Requirement by Zoning District			
	RVL	RL	RM	RH
Minimum lot area	20,000 sf	4,000 sf, 6,000 sf average (1)(2)	3,000 sf	6,000 sf
Minimum lot width	60 ft (3)	60 ft (3)	30 ft (4)	30 ft (4)
Maximum lot depth	4 times lot width (2)	None	None	None
Residential density	2 or fewer primary units per acre, maximum (5)	2 minimum to 7.25 units maximum per acre (5)	7.26 minimum to 15 units maximum per acre (5)	15.01 minimum to 32 units maximum per acre (5)
	Plus 1 second unit in compliance with Section 9.42.170			

Notes:

(1) A parcel in a new subdivision may be as small as 4,000 square feet, but the average size of all the parcels must be 6,000 square feet, except where the subdivision complies with the Special Subdivision Design Standards of Section 9.88.032.

(2) Section 9.24.060.B (RL Alternative Development Option) may allow a lower average.

(3) May be reduced to 30 ft where the review authority determines that a lesser proposed width is sufficient to ensure safe and adequate access and parking.

(4) A larger minimum width may be required where the review authority determines that 30 feet is insufficient to ensure safe and adequate access and parking.

(5) See Section 9.31.030 of this Land Use Code for Density Bonus Provisions.

9.24.050 - Residential District Site Planning and Building Standards

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 2-6 through 2-9, in addition to the applicable standards (e.g., landscaping, parking and loading, etc.) in Article 3 of this Land Use Code.

Table 2-6 - RVL District Standards

Development Standard	RVL Zone Requirement	
	Code	Density Bonus
Setbacks - *Minimum and, where noted, maximum setbacks required. See Section 9.30.090 for exceptions to these requirements. See Figure 2-1.*		
Front	10 ft	N/A
Side - Interior (each)	5 ft	N/A
Side - Street side	10 ft	N/A
Rear	5 ft	N/A
Garage - Front	20 ft	N/A
Accessory structures	See 9.42.030 (Accessory Structures)	
Streamside setbacks	See Chapter 9.59	
Floor area ratio (FAR) -*Maximum allowable FAR. See the definition and illustration of FAR in Article 10 (Glossary)*		
Maximum FAR	0.20	N/A
Maximum site coverage -*Maximum percentage of site area to be occupied by structures, parking, driveways, and pavement.*		
Maximum coverage	20%	N/A
Height limit -*Maximum allowable height of structures. See Section 9.30.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions. See Figure 2-2.*		
Maximum height	35 ft.	37 ft
Landscaping - See Chapter 9.34 (Landscaping)		
Parking - See Chapter 9.36 (Parking and Loading)		
Signs - See Chapter 9.38 (Signs)		

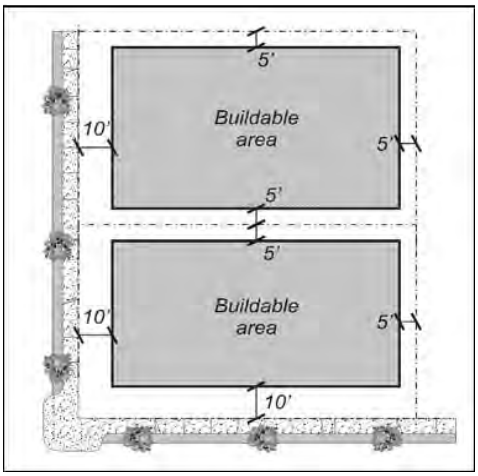

Figure 2-1 - Setback Requirements

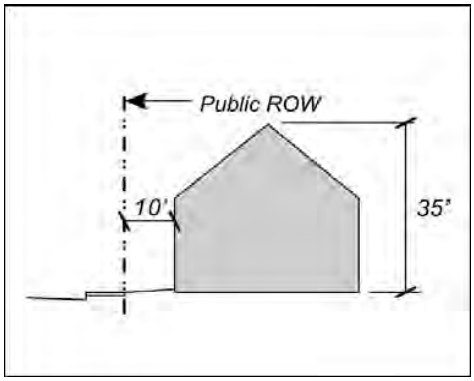

Figure 2-2 - Building Height and Profile

Table 2-7 - RL District Standards

Development Standard	RL Zone Requirement	
	Code	Density Bonus
Setbacks - *Minimum and, where noted, maximum setbacks required. See Section 9.30.090 for exceptions to these requirements. See Figure 2-3.*		
Front	10 ft	8 ft
Side - Interior (each)	5 ft	0 ft (townhouse and condo)
Side - Street side	10 ft	8 ft
Rear	5 ft	N/A
Garage - Front	20 ft	N/A
Accessory structures	See 9.42.030 (Accessory Structures)	
Streamside setbacks	See Chapter 9.59	
Floor area ratio (FAR) -*Maximum allowable FAR. See the definition and illustration of FAR in Article 10 (Glossary)*		
Maximum FAR	0.50	N/A
Maximum site coverage -*Maximum percentage of site area to be occupied by structures, parking, driveways, and pavement.*		
Maximum coverage	50%	Proportional to reduced lot area (see Section 9.30.060)
Height limit -*Maximum allowable height of structures. See Section 9.30.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions. See Figure 2-4.*		
Maximum height	35 ft.	38 ft
Landscaping - See Chapter 9.34 (Landscaping)		
Parking - See Chapter 9.36 (Parking and Loading)		
Signs - See Chapter 9.38 (Signs)		

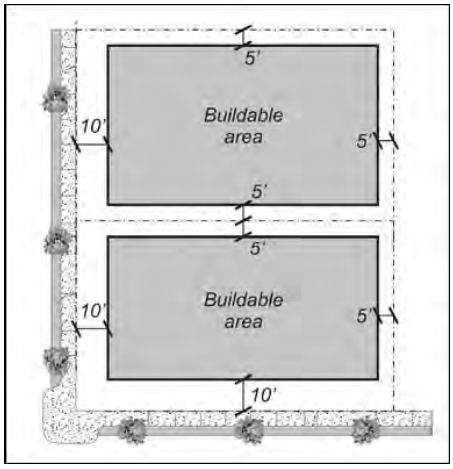

Figure 2-3 - Setback Requirements

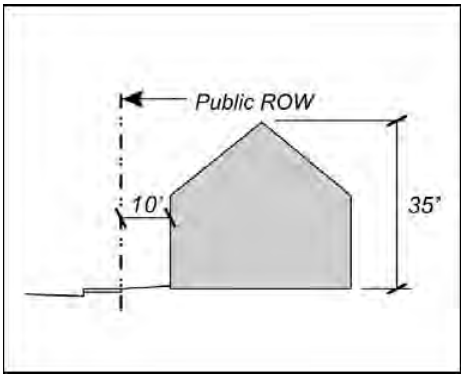

Figure 2-4 - Building Height and Profile

Table 2-8 - RM District Standards

Development Standard	RM Zone Requirement	
	Code	Density Bonus
Setbacks - *Minimum and, where noted, maximum setbacks required. See Section 9.30.090 for exceptions to these requirements. See Figure 2-5.*		
Front	10 ft	5 ft
Side - Interior (each)	5 ft	0 ft (townhouse and condo)
Side - Street side	10 ft	5 ft
Rear	5 ft	N/A
Garage - Front	20 ft	N/A
Accessory structures	See 9.42.030 (Accessory Structures)	
Streamside setbacks	See Chapter 9.59	
Maximum site coverage -*Maximum percentage of site area to be occupied by structures, parking, driveways, and pavement.*		
Maximum coverage	60%	Proportional to reduced lot area (see Section 9.30.060)
Height limit -*Maximum allowable height of structures. See Section 9.30.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions. See Figure 2-6.*		
Maximum height	35 ft.	38 ft
Landscaping - See Chapter 9.34 (Landscaping)		
Parking - See Chapter 9.36 (Parking and Loading)		
Signs - See Chapter 9.38 (Signs)		

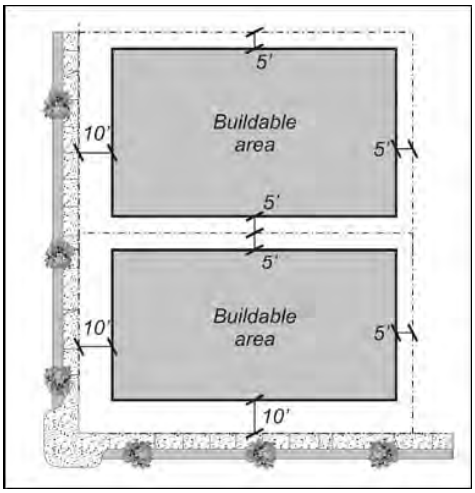

Figure 2-5 - Setback Requirements

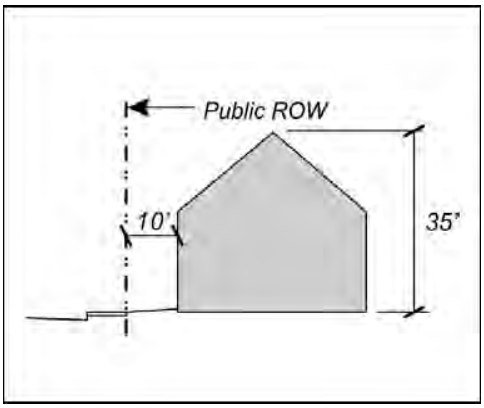

Figure 2-6 - Building Height and Profile

Table 2-9 - RH District Standards

Development Standard	RH Zone Requirement	
	Code	Density Bonus
Setbacks - *Minimum and, where noted, maximum setbacks required. See Section 9.30.090 for exceptions to these requirements. See Figure 2-7.*		
Front	10 ft	5 ft
Side - Interior (each)	5 ft	N/A
Side - Street side	10 ft	5 ft
Rear	5 ft	N/A
Garage - Front	20 ft	N/A
Accessory structures	See 9.42.030 (Accessory Structures)	
Streamside setbacks	See Chapter 9.59	
Maximum site coverage -*Maximum percentage of site area to be occupied by structures, parking, driveways, and pavement.*		
Maximum coverage	70%	N/A
Height limit -*Maximum allowable height of structures. See Section 9.30.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions. See Figure 2-8.*		
Maximum height	35 ft.	45 ft
Landscaping - See Chapter 9.34 (Landscaping)		
Parking - See Chapter 9.36 (Parking and Loading)		
Signs - See Chapter 9.38 (Signs)		

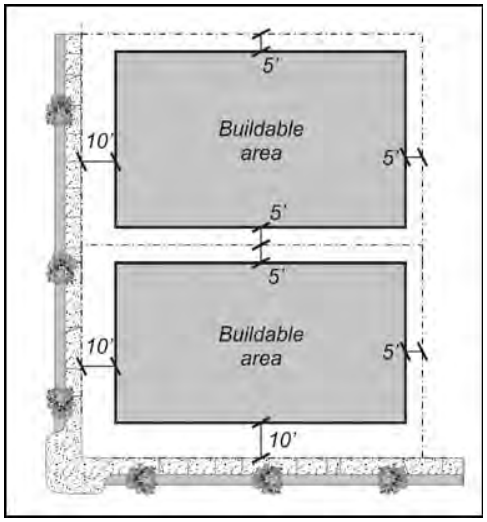

Figure 2-7 - Setback Requirements

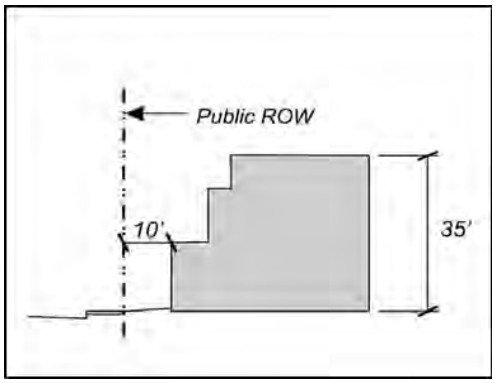

Figure 2-8 - Building Height and Profile

9.24.060 - Residential District Land Use Limitations

A. RVL district performance standards.

1. Grading. All grading shall be strictly controlled to prevent the excessive removal of natural vegetation, and erosion. Development and grading on slopes greater than 15 percent may be allowed only with Hillside Development Permit approval.

2. Seismic and geologic hazards. The review authority shall ensure that each development proposal on a sloping site is designed to avoid or mitigate seismic and geologic hazards.

B. RL district alternative development option. An applicant for a development project within the RL zoning district on a site of less than one-half acre may choose to comply with the following standards instead of the other equivalent applicable standards of this Chapter.

1. Permit requirement. Minor Use Permit approval shall be required for a project with multiple uses, and/or with a use that would otherwise require Use Permit approval.

2. Development standards. A residential project of three or more dwelling units shall comply with the following standards:

a. Reserved occupancy. At least one unit shall be reserved for occupancy by a low income household; this reservation shall remain in place for a minimum of 15 years

b. Maximum density. Density shall not exceed one unit for every 3,000 square feet of the overall development area, regardless of the size of the units. No additional density bonus shall be provided. The units may be constructed in a single building or in any combination of separate buildings; and on a single lot, or result in multiple lots.

c. Subdivision process. A subdivision in compliance with this Subsection shall also comply with Article 8 (Subdivision Regulations and Procedures), provided that a public hearing is not required unless new lots are created.

d. Floor area ratio. Total project floor area ratio (FAR) shall not apply to an alternative development option.

e. Site and building standards. Project setbacks, site coverage and the height of structures shall comply with the requirements of the RL zoning district, provided that the review authority may reduce setback and increase site coverage requirements where the review authority finds that safe and adequate access and parking will be provided.

f. Parking. Off-street parking shall comply with the requirements of Chapter 9.36 (Parking and Loading), provided that at least one space per unit shall be provided.

3. Further subdivision. A development approved in compliance with this Subsection shall not subsequently be further subdivided unless each new parcel complies with all the minimum lot area standards of the RL zoning district.

C. **Planned residential development requirements.** As required by General Plan Policy LU-2d, the development of a vacant site of one acre and larger shall require that the Planned Development combining zone first be applied to the property. The purpose shall be to: incorporate a mix of residential types, unit sizes, and styles in a coordinated manner to allow clustering of units; to provide larger, more usable areas not affected by site coverage; and to protect natural resources or site features, including creekside riparian areas, wetlands, and significant vegetation such as trees. Where a planned residential development is adjacent to a non-residential use, appropriate visual and noise buffers shall be provided between the uses. Other provisions within a Plan Development should also address affordable housing.

9.24.070 - Residential Special Considerations

Proposed development and new land uses on parcels within the SCR (Special Considerations - Residential) combining zone shall comply with the following requirements, as applicable, in compliance with General Plan Table LU-3.

SCR Zone	Area	SCR Zone Requirements
1	Spear Av. & St. Louis Rd.	Residential development shall include a mix of housing types and shall be clustered to maintain stream course and riparian areas as open space.
2	Sunset at Baldwin APN's 505-121-021 & 505-121-019	Residential development shall be clustered to preserve Jolly Giant Creek course and wetland areas as open space, and to reserve right-of-way for the future extension of Foster Street to Sunset Avenue. Baldwin should be extended to intersect with the extension of Foster. Access to residential development should be from Foster and Baldwin. The eastern portion of the site may be used for a public facility use to allow for a new Fire Station in this site. A public facility special consideration shall be placed on the Sunset Avenue sites per PC Resolution 08-07.
3	North of Wiyot Way & south of Mustang Lane	On APN 507-291-032, north of Wiyot Way, a residential special consideration shall be placed on this site that would allow for development of hospital related housing, including, but not limited to: life care facilities, assisted living facilities, medical related group quarters, medical services - extended care facilities, temporary housing for family members of hospital patients, or housing for doctors nurses, and hospital staff per PC Resolution 08-11.

CHAPTER 9.26 -COMMERCIAL, INDUSTRIAL, AND PUBLIC FACILITY ZONING DISTRICTS

Sections:

9.26.010 - Purpose
9.26.020 - Purposes of Commercial, Industrial, and Public Facility Zoning Districts
9.26.030 - Commercial, Industrial, and Public Facility District Allowable Land Uses
9.26.040 - Commercial, Industrial, and Public Facility District Parcel and Density Standards
9.26.050 - Commercial, Industrial, and Public Facility District Site Planning and Building Standards
9.26.060 - Commercial, Industrial, and Public Facility District Land Use Limitations
9.26.070 - Commercial, Industrial, and Public Facility Special Considerations

9.26.010 - Purpose

This Chapter lists the land uses that may be allowed within the commercial, industrial, and public facility zoning districts established by Section 9.12.020 (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.

9.26.020 - Purposes of Commercial, Industrial, and Public Facility Zoning Districts

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

A. CC (Commercial - Central) district. The CC zoning district is applied to areas surrounding the Plaza, and is intended to accommodate retail, professional office, civic, hotel, theater, residential, and similar and compatible uses. The CC zoning district is consistent with and implements the Commercial Central land use classification of the General Plan.

B. CG (Commercial - General) district. The CG zoning district is applied to areas appropriate for a range of retail and service land uses that primarily serve local residents and businesses, including shops, personal and business services, and restaurants. Residential uses may also be accommodated as part of mixed use projects. The CG zoning district is consistent with the Commercial - General land use classification of the General Plan.

C. CM (Commercial - Mixed Use Center) district. The CM zoning district is applied to areas identified by General Plan policy LU-1d as the existing neighborhood centers of Westwood, Bayside, Sunny Brae, and Greenview, where additional retail, personal and business services, and other neighborhood-oriented commercial services are encouraged, and where substantial additions to the existing centers shall include residential units on upper floors or in separate buildings. The CM zoning district is consistent with and implements the Commercial - Mixed Use Center land use classification of the General Plan, and policy LU-1d.

D. CV (Commercial - Visitor Serving) district. The CV zoning district is applied to areas adjacent to highway interchanges that are appropriate for uses that primarily serve the traveling public, including lodging, restaurants, auto sales centers, service stations, convenience stores, and similar and compatible uses. The CV zoning district is consistent with the Commercial - Visitor Serving land use classification of the General Plan.

E. IL (Industrial - Limited) district. The IL zoning district is applied to areas appropriate for light and moderate impact manufacturing, and limited commercial uses. Residential uses may also be allowed where they are compatible with the nature of the production process, or the related sales of products made on the premises. The IL zoning district is consistent with the Industrial - Limited land use classification of the General Plan.

F. IG (Industrial - General) district. The IG zoning district is applied to areas appropriate for light, moderate impact, and high impact manufacturing, and limited commercial uses. The IG zoning district is consistent with the Industrial - General land use classification of the General Plan.

G. PF (Public Facility) district. The PF zoning district is applied to sites that are used or intended for use as various types of public facilities, and certain uses that may be privately owned, but are institutional in character. The PF zoning district is consistent with the Public Facility land use classification of the General Plan.

9.26.030 - Commercial, Industrial, and Public Facility District Allowable Land Uses

Table 2-10 identifies the uses of land allowed by this Land Use Code in the commercial, industrial, and public facility zoning districts, and the planning permit required to establish each use, in compliance with Section 9.20.030 (Allowable Land Uses and Permit Requirements).

Note: Where the last column in the table ("Specific Use Regulations") includes a section number, the regulations in the referenced section apply to the use. Provisions in other sections of this Land Use Code may also apply.

TABLE 2-10
Allowed Land Uses and Permit Requirements for Commercial, Industrial, And Public Facility Zoning Districts

P	Permitted Use, Zoning Clearance required
MUP	Minor Use Permit required
UP	Use Permit required (2)
S	Permit determined by specific use regulations
—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	CC	CG	CV	CM	IL	IG	PF	
INDUSTRY, MANUFACTURING & PROCESSING, WHOLESALING								
Agricultural cultivation - Medical marijuana	—	—	—	—	UP	UP	—	9.42.105
Agricultural processing - Very low impact	—	—	—	—	P	P	—	
Agricultural processing -Low impact	MUP(4)	MUP(4)	—	—	P	P	—	
Biodiesel production	—	—	—	—	UP	UP	—	
Composting	—	—	—	—	MUP	MUP	—	
Construction contractors	—	—	—	—	P	P	—	
Furniture and fixtures manufacturing, cabinet shop	—	UP	—	—	P	P	—	
Laboratory - Medical, analytical, R&D	—	P	—	—	P	P	—	
Laundry, dry cleaning plant	—	UP	—	UP	P	P	—	
Manufacturing/processing - Low impact	MUP(4)	MUP(4)	—	—	P	P	—	
Manufacturing/processing - Moderate impact	—	—	—	—	MUP	MUP	—	
Manufacturing/processing - High impact	—	—	—	—	—	UP	—	
Media production	P	P	—	—	P	P	—	
Printing and publishing	P	P	—	—	P	P	—	
Recycling - Processing facility	—	—	—	—	MUP	P	—	9.42.160
Recycling - Reverse vending machines	—	P	P	—	P	P	—	9.42.160
Recycling - Scrap and dismantling yards	—	—	—	—	—	MUP	—	9.42.160
Recycling - Small collection facility	—	MUP	—	—	MUP	P	P	9.42.160
Solid waste disposal transfer station	—	—	—	—	UP	UP	—	
Storage - Business records	MUP	MUP	—	—	MUP	MUP	—	
Storage - Outdoor	MUP	MUP	MUP	MUP	P	P	P	9.42.150
Storage - Personal storage facility (mini-storage)	—	UP	—	—	P	P	—	
Storage - Warehouse, indoor storage	—	UP	—	—	P	P	—	
Wholesaling and distribution	—	P	—	—	P	P	—	

Key to Zoning District Symbols

CC	Commercial - Central	IL	Industrial - Limited
CG	Commercial - General	IG	Industrial - General
CV	Commercial - Visitor Serving	PF	Public Facility
CM	Commercial - Mixed Use Center		

Notes:

(1) See Article 10 (Glossary) for land use definitions.

(2) Use Permit required for any proposed retail use with either: (a) a floor greater than 30,000 sf; or (b) physical alteration of eight or more acres; or (c) generation of 1,000 or more vehicle trips per day. See also Section 9.26.060.

(3) Residential units should only be located above nonresidential uses or at ground level behind the street-fronting nonresidential uses pursuant to Section 9.42.110.

(4) Allowed only in conjunction with the on-site retail sale of products produced on the site.

TABLE 2-10
Allowed Land Uses and Permit Requirements for Commercial, Industrial, And Public Facility Zoning Districts

P	Permitted Use, Zoning Clearance required
MUP	Minor Use Permit required
UP	Use Permit required (2)
S	Permit determined by specific use regulations
—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	CC	CG	CV	CM	IL	IG	PF	
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES								
Bar, tavern, pub	UP	UP	UP	UP	UP	—	—	
Commercial recreation facility - Indoor	MUP	MUP	—	MUP	MUP	—	—	
Commercial recreation facility - Outdoor	—	MUP	MUP	—	—	—	—	
Conference/convention facility	UP	UP	UP	—	—	—	UP	
Fitness/health facility	MUP	P	—	MUP	P	—	—	
Library, museum, gallery	P	P	P	P	—	—	P	
Meeting facility, public and private	MUP	P	—	MUP	MUP	—	MUP	
Night club	UP	UP	UP	—	UP	—	—	
Park, playground	P	—	—	—	—	—	P	
School - Elementary, middle, secondary	—	—	—	—	—	—	P	
School - Specialized education/training	UP	MUP	—	MUP	MUP	—	MUP	
Sex oriented business	—	UP	UP	UP	UP	UP	—	9.40
Sports and entertainment assembly facility	—	—	—	—	—	—	UP	
Studio - Art, dance, martial arts, music, etc.	MUP	MUP	—	MUP	MUP	—	—	
Theater, auditorium	MUP	MUP	MUP	MUP	—	—	—	
RESIDENTIAL USES								
Caretaker unit	—	MUP	—	—	MUP	MUP	—	
Emergency shelter	—	UP	—	—	UP	UP	MUP	
Group Quarters	—	UP	—	—	UP	UP	MUP	
Home occupation	P	P	—	P	P	—	—	9.42.090
Live/work unit	P	P	—	P	P	—	—	9.42.100
Multi-family housing	P(3)	P(3)	—	P(3)	P	—	—	9.42.110
Residential care facility, 7 or more clients	MUP	MUP	—	MUP	—	—	MUP	
Single-family dwelling	P(3)	P(3)	—	P(3)	P	—	—	
Transitional housing	—	UP	—	—	UP	UP	MUP	

Key to Zoning District Symbols

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CG	Commercial - General	IG	Industrial - General
CV	Commercial - Visitor Serving	PF	Public Facility
CM	Commercial - Mixed Use Center		

Notes:

(1) See Article 10 (Glossary) for land use definitions.

(2) Use Permit required for any proposed retail use with either: (a) a floor greater than 30,000 sf; or (b) physical alteration of eight or more acres; or (c) generation of 1,000 or more vehicle trips per day. See also Section 9.26.060.

(3) Residential units should only be located above the nonresidential uses or at ground level behind the street-fronting nonresidential uses pursuant to Section 9.42.110.

TABLE 2-10
Allowed Land Uses and Permit Requirements for Commercial, Industrial, And Public Facility Zoning Districts

P	Permitted Use, Zoning Clearance required
MUP	Minor Use Permit required
UP	Use Permit required (2)
S	Permit determined by specific use regulations
—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	CC	CG	CV	CM	IL	IG	PF	
RETAIL TRADE (2)								
Accessory retail uses	P	P	P	P	P	—	P	9.42.020
Artisan shop	P	P	P	P	P	—	—	
Auto and vehicle sales and rental	—	UP	MUP	—	P	—	—	
Auto parts sales with no installation services	P	P	P	P	P	—	—	
Building and landscape materials sales - Indoor	—	MUP	MUP	MUP	P	—	—	
Building and landscape materials sales - Outdoor	—	MUP	—	—	P	—	—	
Construction and heavy equipment sales and rental	—	MUP	MUP	—	P	—	—	
Convenience store	P	P	P	P	MUP	—	—	
Drive-through retail	—	UP	UP	—	—	—	—	9.42.080
Farm supply and feed store	—	P	P	—	P	—	—	
Farmers market / Produce stands	P	P	P	P	—	—	P	
Fuel dealer (propane for home and farm use, etc.)	—	MUP	MUP	MUP	MUP	MUP	—	
Furniture, furnishings and appliance store	P	P	P	P	P	—	—	
General retail - Less than 20,000 sf	P	P	—	P	MUP	—	—	
General retail - 20,000 to less than 30,000	MUP	P	—	P	MUP	—	—	
General retail - 30,000 sf or more	UP	UP	—	UP	UP	—	—	
Mobile eating and drinking vendors	P	P	P	P	MUP	MUP	MUP	9.42.140
Mobile home, boat, or RV sales	—	—	MUP	—	P	—	—	
Outdoor retail sales and activities	P	P	MUP	P	MUP	—	—	9.42.140
Pet shop	—	P	—	P	P	—	—	
Restaurant, café, coffee shop	P	P	P	P	MUP	MUP	MUP	
Restaurant, formula	—	P	P	—	—	—	—	9.42.164
Second hand store	P	P	P	P	—	—	—	
Service station	—	MUP	MUP	MUP	MUP	—	—	9.42.180
Shopping center	MUP	MUP	—	MUP	—	—	—	
Warehouse retail	—	UP	UP	—	UP	—	—	

Key to Zoning District Symbols

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CM	Commercial - Mixed Use Center		

Notes:

(1) See Article 10 (Glossary) for land use definitions.

(2) Use Permit required for any proposed retail use with either: (a) a floor greater than 30,000 sf; or (b) physical alteration of eight or more acres; or (c) generation of 1,000 or more vehicle trips per day. See also Section 9.26.060.

TABLE 2-10 Allowed Land Uses and Permit Requirements for Commercial, Industrial, And Public Facility Zoning Districts	P	Permitted Use, Zoning Clearance required
	MUP	Minor Use Permit required
	UP	Use Permit required (2)
	S	Permit determined by specific use regulations
	—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	CC	CG	CV	CM	IL	IG	PF	
SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL								
ATM	P	P	P	P	—	—	—	
Bank, financial services	P	P	MUP	P	—	—	—	
Business support service	P	P	—	P	—	—	—	
Medical services - Doctor office	P	P	P	P	—	—	MUP	
Medical services - Clinic, lab, urgent care	MUP	MUP	MUP	MUP	—	—	MUP	
Medical services - Extended care	MUP	—	—	MUP	—	—	MUP	
Medical services - Hospital	—	UP	UP	—	—	—	UP	
Medical services - Medical marijuana cooperative or collective	UP	UP	—	—	—	—	—	9.42.105
Office - Accessory	P	P	P	P	P	P	P	
Office - Business/service	P	P	—	P	P	—	—	
Office - Government	P	P	—	P	P	—	—	
Office - Processing	P	P	—	P	P	—	—	
Office - Professional	P	P	—	P	P	—	—	
SERVICES -GENERAL								
Adult day care - 14 or fewer clients	P	P	—	P	—	—	MUP	
Adult day care - 15 or more clients	MUP	MUP	—	MUP	—	—	MUP	
Catering service	—	P	—	—	P	P	—	
Cemetery	—	—	—	—	—	—	UP	
Child day care center	MUP	MUP	—	MUP	MUP	UP	MUP	9.42.070
Child day care - large or small family day care home	P	P	—	P	P	—	—	
Drive-through service	—	MUP	MUP	MUP	—	—	—	9.42.080
Drop-in center	—	UP	—	—	UP	UP	MUP	
Equipment rental	—	MUP	—	—	P	P	—	
Kennel, animal boarding	—	—	—	—	MUP	MUP	—	
Lodging - Bed & breakfast inn (B&B)	MUP	MUP	MUP	MUP	—	—	—	9.42.060
Lodging - Hostel	MUP	MUP	MUP	MUP	—	—	—	
Lodging - Hotel or motel	P	MUP	P	MUP	—	—	—	
Lodging - Recreational vehicle (RV) park	—	—	UP	—	—	—	—	
Maintenance service - Client site services	P	P	—	—	P	P	—	
Mortuary, funeral home	—	MUP	—	—	—	—	—	
Personal services	P	P	—	P	P	—	—	
Personal services - Restricted	—	P	—	—	—	—	—	
Public safety facility	—	—	—	—	—	—	MUP	
Repair service - Equipment, large appliances, etc.	—	—	—	—	P	P	—	
Social service organization	P	P	—	P	P	—	MUP	
Vehicle services - Major repair/body work	—	MUP	MUP	—	P	P	—	
Vehicle services - Minor maintenance/repair/retread	—	P	P	MUP	P	P	—	
Veterinary clinic, animal hospital	—	MUP	MUP	MUP	—	—	—	

TABLE 2-10
Allowed Land Uses and Permit Requirements for Commercial, Industrial, And Public Facility Zoning Districts

P	Permitted Use, Zoning Clearance required
MUP	Minor Use Permit required
UP	Use Permit required (2)
S	Permit determined by specific use regulations
—	Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	CC	CG	CV	CM	IL	IG	PF	
TRANSPORTATION, COMMUNICATIONS & INFRASTRUCTURE								
Ambulance, taxi, or limousine dispatch facility	—	—	—	—	P	P	—	
Broadcasting studio	MUP	MUP	—	UP	P	UP	P	9.44
Parking facility, public or commercial	P	P	P	P	P	P	P	
Pipeline, utility transmission or distribution line	MUP	MUP	MUP	MUP	MUP	MUP	MUP	
Telecommunications facility	UP	UP	UP	UP	UP	UP	UP	9.44
Transit station or terminal	MUP	MUP	MUP	MUP	MUP	MUP	MUP	
Truck or freight terminal	—	—	UP	—	MUP	MUP	—	
Truck stop	—	—	UP	—	MUP	MUP	—	9.42.164
Utility facility	—	—	—	—	MUP	MUP	P	
Utility infrastructure	P	P	P	P	P	P	P	

Key to Zoning District Symbols

CC	Commercial - Central	IL	Industrial - Limited
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CV	Commercial - Visitor Serving	PF	Public Facility
CM	Commercial - Mixed Use Center		

Notes:

(1) See Article 10 (Glossary) for land use definitions.

(2) Use Permit required for any proposed retail use with either: (a) a floor greater than 30,000 sf; or (b) physical alteration of eight or more acres; or (c) generation of 1,000 or more vehicle trips per day. See also Section 9.26.060.

9.26.040 - Commercial, Industrial, and Public Facility District Parcel and Density Standards

A new subdivision, and the density of residential development shall comply with the requirements shown in Table 2-11.

Table 2-11 - Parcel and Density Standards

Zoning District	Minimum Lot Area	Minimum Lot Width	Maximum Lot Depth	Maximum Density
CC	5,000 sf	50 ft	3 times width	7.26 to 15 units per acre
CG	5,000 sf	50 ft	3 times width	
CM	5,000 sf	50 ft	3 times width	
CV	10,000 sf	80 ft	3 times width	None allowed
IL	6,000 sf	60 ft	None	7.26 to 15 units per acre
IG	1 acre	100 ft	None	None allowed
PF	None	None	None	None allowed

9.26.050 - Commercial, Industrial, and Public Facility District Site Planning and Building Standards

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 through 2-18, in addition to the applicable development standards (e.g., landscaping, parking and loading, etc.) in Article 3 of this Land Use Code.

Table 2-12 - CC District Standards

Development Standard	CC Zone Requirement
Setbacks - *Minimum and, where noted, maximum setbacks required. See Section 9.30.090 for exceptions to these requirements. See Figure 2-9.*	
Front	None required
Side - Interior (each)	10 ft abutting to a residential zone; none required otherwise
Side - Street side	None required
Rear	10 ft abutting to a residential zone; none required otherwise
Accessory structures	See 9.42.030 (Accessory Structures)
Floor area ratio (FAR) -*Maximum allowable FAR. See the definition and illustration of FAR in Article 10 (Glossary)*	
Maximum FAR	3.0
Height limit - *Maximum allowable height of structures. See Section 9.30.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions. See Figure 2-10.*	
Maximum height	45 ft
Landscaping - See Chapter 9.34 (Landscaping)	
Parking - See Chapter 9.36 (Parking and Loading)	
Signs - See Chapter 9.38 (Signs)	
Special Standards - See Section 9.26.060.A	

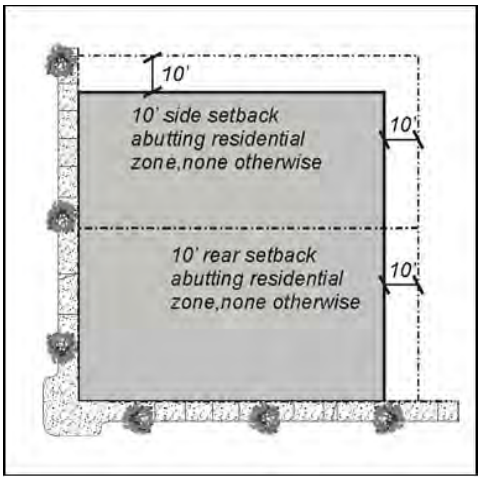

Figure 2-9 - Setback Requirements

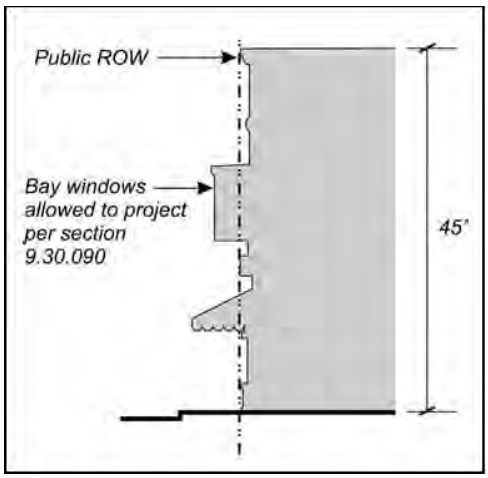

Figure 2-10 - Building Height and Profile

Table 2-13 - CG District Standards

Development Standard	CG Zone Requirement
Setbacks - *Minimum and, where noted, maximum setbacks required. See Section 9.30.090 for exceptions to these requirements. See Figure 2-11.*	
Front	10 ft
Side - Interior (each)	10 ft abutting to a residential zone; none required otherwise
Side - Street side	10 ft
Rear	10 ft abutting to a residential zone; none required otherwise
Accessory structures	See 9.42.030 (Accessory Structures)
Floor area ratio (FAR) -*Maximum allowable FAR. See the definition and illustration of FAR in Article 10 (Glossary)*	
Maximum FAR	2.0
Height limit - *Maximum allowable height of structures. See Section 9.30.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions. See Figure 2-12.*	
Maximum height	35 ft
Landscaping - See Chapter 9.34 (Landscaping)	
Parking - See Chapter 9.36 (Parking and Loading)	
Signs - See Chapter 9.38 (Signs)	
Special Standards - See Section 9.26.060.A	

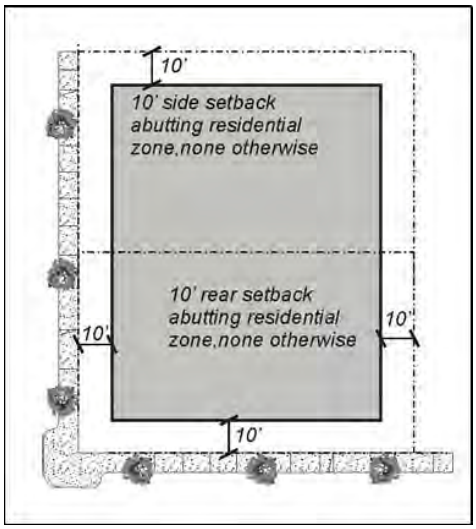

Figure 2-11 - Setback Requirements

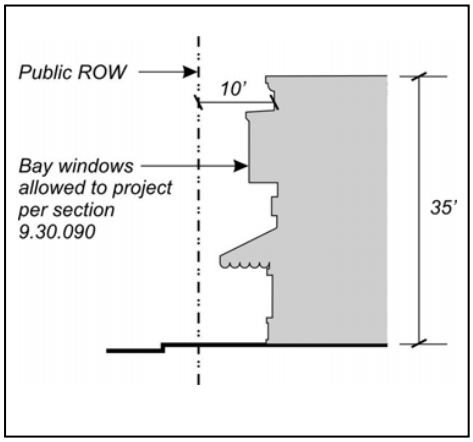

Figure 2-12 - Building Height and Profile

Table 2-14 - CM District Standards

Development Standard	CM Zone Requirement
Setbacks - *Minimum and, where noted, maximum setbacks required. See Section 9.30.090 for exceptions to these requirements. See Figure 2-13.*	
Front	None required
Side - Interior (each)	10 ft abutting to a residential zone; none required otherwise
Side - Street side	None required
Rear	10 ft abutting to a residential zone; none required otherwise
Accessory structures	See 9.42.030 (Accessory Structures)
Floor area ratio (FAR) -*Maximum allowable FAR. See the definition and illustration of FAR in Article 10 (Glossary)*	
Maximum FAR	2.0
Height limit - *Maximum allowable height of structures. See Section 9.30.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions. See Figure 2-14.*	
Maximum height	35 ft
Landscaping - See Chapter 9.34 (Landscaping)	
Parking - See Chapter 9.36 (Parking and Loading)	
Signs - See Chapter 9.38 (Signs)	
Special Standards - See Sections 9.26.060.A&B.	

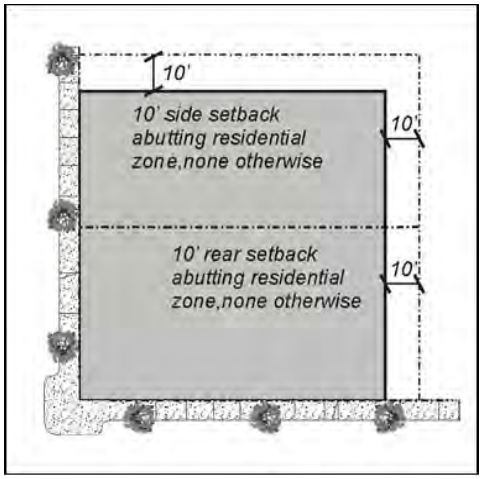

Figure 2-13 - Setback Requirements

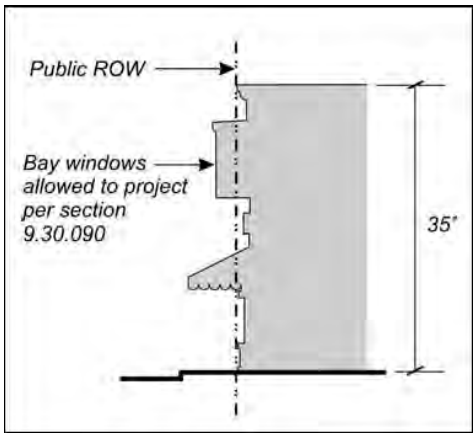

Figure 2-14 - Building Height and Profile

Table 2-15 - CV District Standards

Development Standard	CV Zone Requirement
Setbacks - *Minimum and, where noted, maximum setbacks required. See Section 9.30.090 for exceptions to these requirements. See Figure 2-15.*	
Front	15 ft
Side - Interior (each)	10 ft abutting to a residential zone; none required otherwise
Side - Street side	15 ft
Rear	10 ft abutting to a residential zone; none required otherwise
Accessory structures	See 9.42.030 (Accessory Structures)
Floor area ratio (FAR) -*Maximum allowable FAR. See the definition and illustration of FAR in Article 10 (Glossary)*	
Maximum FAR	2.0
Height limit - *Maximum allowable height of structures. See Section 9.30.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions. See Figure 2-16.*	
Maximum height	45 ft
Landscaping - See Chapter 9.34 (Landscaping)	
Parking - See Chapter 9.36 (Parking and Loading)	
Signs - See Chapter 9.38 (Signs)	
Special Standards - See Section 9.26.060.A.	

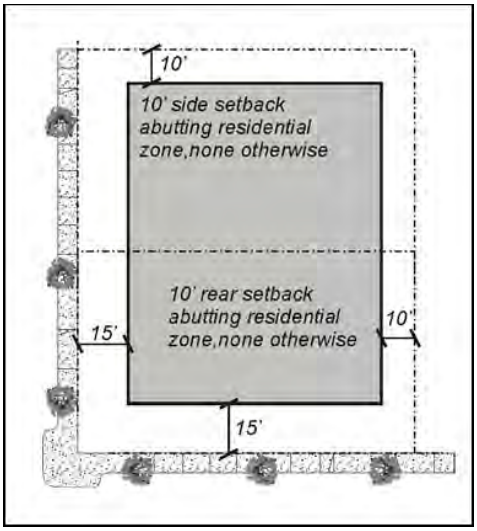

Figure 2-15 - Setback Requirements

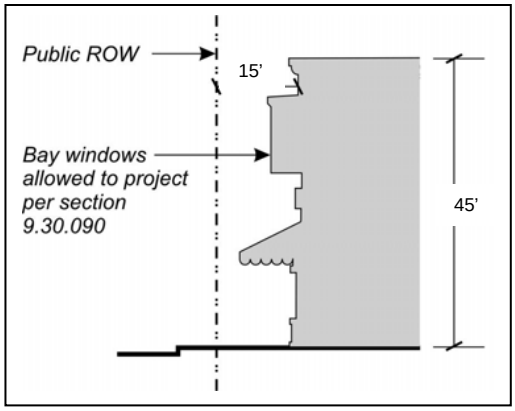

Figure 2-16 - Building Height and Profile

Table 2-16 - IL District Standards

Development Standard	IL Zone Requirement
Setbacks - *Minimum and, where noted, maximum setbacks required. See Section 9.30.090 for exceptions to these requirements. See Figure 2-17.*	
Front	10 ft
Side - Interior (each)	20 ft abutting to a residential zone; 10 ft required otherwise
Side - Street side	10 ft
Rear	20 ft abutting to a residential zone; 10 ft required otherwise
Accessory structures	See 9.42.030 (Accessory Structures)
Floor area ratio (FAR) -*Maximum allowable FAR. See the definition and illustration of FAR in Article 10 (Glossary)*	
Maximum FAR	1.50
Height limit - *Maximum allowable height of structures. See Section 9.30.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions. See Figure 2-18.*	
Maximum height	45 ft
Landscaping - See Chapter 9.34 (Landscaping)	
Parking - See Chapter 9.36 (Parking and Loading)	
Signs - See Chapter 9.38 (Signs)	
Special Standards - See Section 9.26.060.A.	

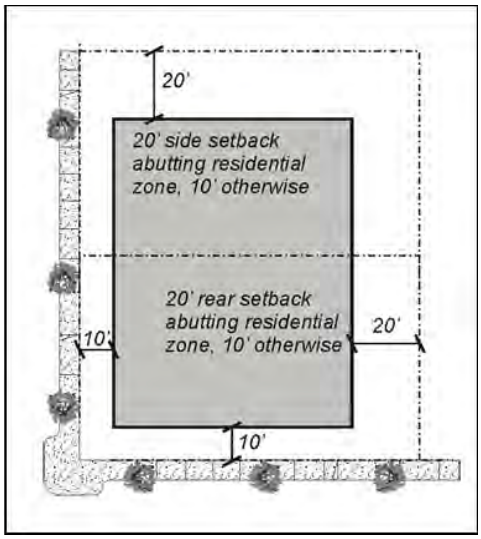

Figure 2-17 - Setback Requirements

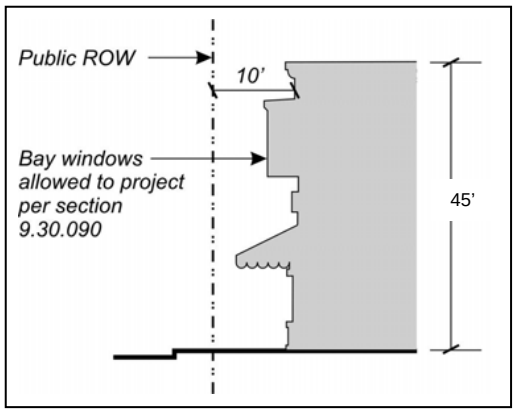

Figure 2-18 - Building Height and Profile

Table 2-17 - IG District Standards

Development Standard	IG Zone Requirement
Setbacks - *Minimum and, where noted, maximum setbacks required. See Section 9.30.090 for exceptions to these requirements. See Figure 2-19.*	
Front	25 ft
Side - Interior (each)	25 ft abutting to a residential zone; 10 ft required otherwise
Side - Street side	25 ft
Rear	25 ft abutting to a residential zone; 10 ft required otherwise
Accessory structures	See 9.42.030 (Accessory Structures)

Floor area ratio (FAR) -*Maximum allowable FAR. See the definition and illustration of FAR in Article 10 (Glossary)*	
Maximum FAR	1.50

Height limit - *Maximum allowable height of structures. See Section 9.30.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions. See Figure 2-20.*	
Maximum height	As determined by the review authority

Landscaping - See Chapter 9.34 (Landscaping)
Parking - See Chapter 9.36 (Parking and Loading)
Signs - See Chapter 9.38 (Signs)

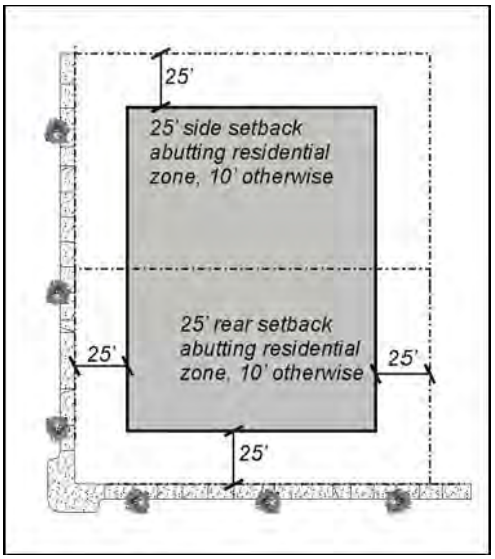

Figure 2-19 - Setback Requirements

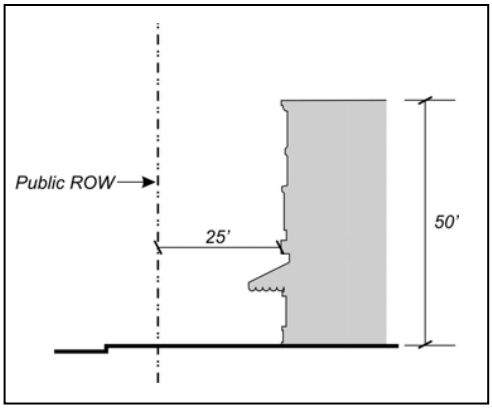

Figure 2-20 - Building Height and Profile

Table 2-18 - PF District Standards

Development Standard	PF Zone Requirement
Setbacks - *Minimum and, where noted, maximum setbacks required. See Section 9.30.090 for exceptions to these requirements. See Figure 2-21.*	
Front	None required
Side - Interior (each)	
Side - Street side	
Rear	
Accessory structures	
Floor area ratio (FAR) -*Maximum allowable FAR. See the definition and illustration of FAR in Article 10 (Glossary)*	
Maximum FAR	1.50
Height limit - *Maximum allowable height of structures. See Section 9.30.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions. See Figure 2-22.*	
Maximum height	As determined by the review authority
Landscaping - See Chapter 9.34 (Landscaping)	
Parking - See Chapter 9.36 (Parking and Loading)	
Signs - See Chapter 9.38 (Signs)	

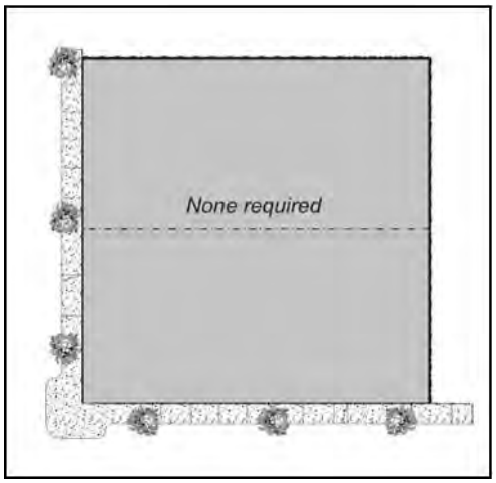

Figure 2-21 - Setback Requirements

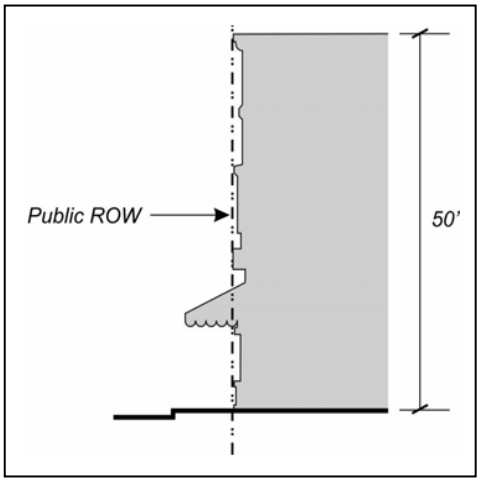

Figure 2-22 - Building Height and Profile

9.26.060 - Commercial, Industrial, and Public Facility District Land Use Limitations

Proposed subdivisions, other development and new land uses within the commercial, industrial, and public facility zoning districts shall comply with the following standards, as applicable.

A. Retail Use Permit considerations. The review of a Use Permit for a retail use allowed by Section 9.26.030 shall include the following, at a minimum, in compliance with General Plan policy LU-3a.

1. Potential impact on existing and projected traffic conditions;

2. Impact on municipal utilities and services;

3. Impact on the physical and ecological characteristics of the site and surrounding area;

4. Impact on the community; and

5. Fiscal impacts of the use.

B. CM zoning district requirements.

1. The existing Westwood, Bayside, Sunny Brae, and Greenview neighborhood centers are designated as multiple-use sites where additional retail establishments, personal and business services, and other neighborhood-oriented commercial services are encouraged.

2. An addition of more than 5,000 square feet to the Westwood, Bayside, Sunny Brae, and Greenview centers shall include residential units on upper floors, or in separate buildings, as determined by the review authority. An addition shall also include additional landscaping, improvement of parking lot designs, and provision of transit access, such as bus turnouts.

3. A new nonresidential use shall be developed as a mixed use project with a residential component.

9.26.070 - Commercial, Industrial, and Public Facility Special Considerations

Proposed development and new land uses on parcels within the SCC (Special Considerations - Commercial), SCI (Special Considerations - Industrial), or SCP (Special Considerations - Public Facility) combining zone shall comply with the following requirements, as applicable, in compliance with General Plan Table LU-5, Table LU-7 or LU-8.

SCC Zone	Area	SCC Zone Requirements
1	Giuntoli Lane at Hwy. 101: Graham site	Commercial development should include consolidated access points, parking that is screened, and setbacks from the Mad River. This property is within the Urban Services Boundary, must be annexed, and has a Planned Development (:PD) overlay.
SCI Zone	**Area**	**SCI Zone Requirements**
2	"K" Street Industrial area	Provide live-work spaces; revitalize older industrial uses.
3	West End Road Corridor	Promote more intensive industrial uses.
4	Aldergrove Industrial Park	Coordinated light industrial development, with increased landscaping.
5	Giuntoli Lane/ Valley East Area: Zanzi site	Planned Development for entire property to minimize access points on Giuntoli, and coordinate land uses, interior circulation, shared parking, and overall building layout. Constraints include setback area along Mad River. APN 507-141-042 may allow for a public facility type use to accommodate a future City park along the Mad River. A special consideration for this parcel shall include dual (Industrial Limited [IL] and/or Public Facility [PF] land use activities.
6	Northcoast Hardwoods site	Planned Development for entire property to minimize access points on Samoa, and coordinate land uses, interior circulation, shared parking, and overall building layout.
7	Little Lake Industries (South I Street)	Planned Development for the entire site shall include: 1. An area not less than 25-feet wide adjacent and parallel to "I" Street shall be a landscape buffer between heavy manufacturing uses to the west and internal development on the site. Landscaping within the buffer strip shall include a dense planting of trees of species appropriate to the coastal environment. 2. A multi-use coastal access pathway shall be included along the entire landscape buffer to connect the Samoa Boulevard area to the Arcata Marsh and bay shoreline. 3. The former marsh areas at the southern portion of the property (south of the railroad tracks) shall be restored or recreated. 4. A small portion of the site adjacent to the Marsh Commons area, or along Butcher Slough, may be suitable for limited residential development. 5. A small portion of the site adjacent to the restored marsh area may be suitable as a site for an “eco-lodge” or other eco-tourism uses focused on coastal recreation. 6. The northern portion of the site east of the landscape buffer may be developed as a “business park” with light industrial and business-service uses. Comprehensive development standards for the business park area, including sidewalks, landscaping, and building design, shall be included in the master plan for the site. 7. A creekside conservation area shall be required parallel to the top of the bank of Butcher Slough.

SCP	Area	SCP Zone Requirements
8	Mad River Hospital Area APN's 507-191-033, 507-191-076, 507-291-032 & 507-191-077	Hospital development on APN's 507-191-077 and 507-291-032, in conjunction with an overall Master Site Plan, shall retain 50% contiguous open space, have adequate provisions for on site retention of stormwater, be compatible in scale with surrounding uses, provide permanent open space or conservation easements to the City of Arcata or a land trust, and limit extent of impervious surfaces (e.g. parking lots) as much as possible through a Planned Development. A conservation easement shall address provisions to: preserve prime agriculture soils; encourage limited agriculture activities; and promote trail systems, wellness gardens, and health related outdoor activities. On APN 507-291-032, north of Wiyot Way, a residential specific consideration shall be placed on this site that would allow for development of hospital related housing, including, but not limited to: life care facilities, assisted living facilities, medical related group quarters, medical services-extended care facilities, temporary housing for family members of hospital patients, or housing for doctors, nurses, and hospital staff per PC Resolution 08-11. If a Master Site Plan for the Mad River Hospital Area is not approved by the year 2020 for a Public Facility (PF) Land Use Designated areas on APN's 507-191-077 and 507-291-032, then consideration should be given to reverting the PF designated lands back to an Agriculture Exclusive (A-E) designation.
9	M Street Fire Station Site APN's 020-127-004 & 005 & 020-128-002	Provide for a residential overlay to this site to make it compatible with adjacent residential - low density neighborhood to the west. The special consideration should be considered if a new fire station is constructed south of the intersection of Sunset Avenue at Baldwin Street. Residential overlay considerations shall be placed on the "M" Street site per PC Resolution 08-07.

CHAPTER 9.28 -COMBINING ZONES

Sections:

9.28.010 - Purpose
9.28.020 - Applicability of Combining Zones
9.28.030 - Coastal Zone (:CZ) Combining Zone
9.28.040 - Historic Landmark (:HL) Combining Zone
9.28.050 - Natural Hazards (:NH) Combining Zone
9.28.060 - Neighborhood Conservation Area (:NCA) Combining Zone
9.28.070 - Planned Development (:PD) Combining Zone
9.28.080 - Plaza Area (:PA) Combining Zone
9.28.090 - Special Considerations (:SC) Combining Zone
9.28.100 - Wetland Protection (:WP) and Stream Protection (:SP) Combining Zones

9.28.010 - Purpose

The provisions of this Chapter regulate development and new land uses in the combining zones established by Section 9.12.020 (Zoning Map and Zoning Districts). Combining zones are applied to property in conjunction with a primary zoning district (for example, RVL:CZ on the Zoning Map would indicate that a site is designated Residential - Very Low Density (RVL), and is also within the Coastal Zone (:CZ)), to note where important site, environmental, safety, compatibility, and/or design issues require particular attention in project planning and design. The combining zones provide guidance for development within the combining zones through standards that apply to proposed development in addition to the standards and regulations of the primary zoning district.

9.28.020 - Applicability of Combining Zones

The provisions of this Chapter apply to proposed land uses and development in addition to all other applicable requirements of this Land Use Code. Any perceived conflict between the provisions of this Chapter and any other provision of this Land Use Code shall be resolved in compliance with Section 9.10.050 (Rules of Interpretation).

A. Mapping of combining zones. The applicability of any combining zone to a specific site is shown by the combining Zoning Map symbol established by Section 9.12.020 (Zoning Map and Zoning Districts), being appended as a suffix to the symbol for the primary zoning district on the Zoning Map. The combining zones are applied to property through the rezoning process (Chapter 9.92) or through the adopted zoning map.

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

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

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

3. Development and new land uses within a combining zone shall comply with all applicable development standards of the primary zoning district, all other applicable provisions of this Land Use Code (e.g., Article 3 - Site Planning and Project Design Standards).

9.28.030 - Coastal Zone (:CZ) Combining Zone

A. **Purpose.** The :CZ combining zone identifies properties that are subject to the policies and standards of the Coastal Act, and the City's Local Coastal Program, including the Coastal Permit requirements of Section 9.72.030.

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

C. **Land use and development standards.** Proposed development and new land uses within the :CZ combining zone shall comply with the requirements of this Land Use Code identified as being applicable within the Coastal Zone (e.g., Chapters 9.22, and 9.5[illegible]he standards of the primary zoning district, and all other applicable provisions of this Land Use Code.

9.28.040 - Historic Landmark (:HL) Combining Zone

A. **Purpose.** The :HL combining zone is intended to assist in the protection, enhancement, perpetuation, and use of structures that are reminders of past eras, events, and persons important in local, state, or national history, or that provide significant examples of past architectural styles, or are landmarks in the history of architecture, or that are unique and irreplaceable assets to the City and the structures in the immediate neighborhood or that provide for Arcata citizens examples of the structures in which past generations lived.

B. **Applicability.** The :HL combining zone is applied to property in compliance with the provisions of Chapter 9.53 (Historical Resource Preservation), and may be combined with any primary zoning district established by Section 9.12.020 (Zoning Map and Zoning Districts).

C. **Land use and development standards.** Proposed development and new land uses within the :HL combining zone shall comply with the requirements of Chapter 9.53, the primary zoning district, and all other applicable provisions of this Land Use Code.

9.28.050 - Natural Hazards (:NH) Combining Zone

A. **Purpose.** The :NH combining zone provides regulations for areas subject to natural hazards, to:

1. Protect lives and property from destruction and damage, to protect the community from the costs resulting from unstable or premature development occurring in these areas;

2. Allow development that is appropriate in these areas, in compliance with Federal Emergency Management Agency (FEMA) and California Department of Water Resources regulations for flood control, and the Alquist-Priolo Earthquake Fault Zoning Act of 1972; and

3. Alert property owners, potential buyers and other interested parties that a high potential for risk exists.

The :NH combining zone is applied only in the highest risk categories.

B. **Applicability.** The :NH combining zone may be combined with any primary zoning district established by Section 9.12.020 (Zoning Map and Zoning Districts), and shall be combined with the primary zoning district in the following areas:

1. **Earthquake hazard areas.** Earthquake fault hazard areas, including:

   a. The Alquist-Priolo Earthquake Fault Zone, as delineated by the Seismic Safety Element; and

   b. All land within 300 feet of a Potentially Active Thrust Fault, as delineated by the Seismic Safety Element.

   Proposed development and new land uses in these areas shall comply with the requirements of the Geologic Hazard Review process in Chapter 9.62 (Geologic Hazard Review).

2. **Landslide hazard areas.** Landslide hazard areas with high landslide risk, as delineated by the Seismic Safety Element. Proposed development and new land uses in these areas shall comply with the requirements of the Geologic Hazard Review process in Chapter 9.62 (Geologic Hazard Review).

3. **Liquefaction areas.** Liquefaction hazard areas with high liquefaction potential, as delineated by the Seismic Safety Element. Proposed development and new land uses in these areas shall comply with the requirements of the Geologic Hazard Review process in Chapter 9.62 (Geologic Hazard Review).

4. **Special flood hazard areas.** Zone A as delineated on the Flood Insurance Rate Map (FIRM), adopted by reference and as specified in Chapter 9.60 (Flood Hazard Review). Proposed development and new land uses in these areas shall comply with the requirements of the Flood Hazard Review Process in Chapter 9.60 (Flood Hazard Review).

C. Permit requirements. Proposed development and new land uses shall comply with the planning permit requirements of the applicable primary zoning district, and the Geologic Hazard Review process (Chapter 9.62 - Geologic Hazard Review), and/or Flood Hazard Review process (Chapter 9.60 - Flood Hazard Review), as applicable.

1. Geologic or other studies may be required in addition to those otherwise required for Geologic Hazard Review or Flood Hazard Review, depending on the project proposed.

2. Site-specific reports prepared in compliance with this Section shall be considered amendments to the Seismic Safety Element maps when a conflict between the general map and a site-specific report is identified.

D. Land use limitations. Any land use normally allowed as a permitted or conditional use in the primary zoning district by this Article may be allowed within the :NH combining zone, subject to the requirements of this Section, except as follows.

1. Conditional uses. The following uses may be permitted with Use Permit approval (Section 9.72.080 - Use Permit and Minor Use Permit):

a. Uses that are allowed by this Article in the primary zoning district with Use Permit approval; and

b. The construction of levees, dikes or other flood structures designed to protect property from natural flood hazards. Within the Coastal Zone, these structures shall comply with the requirements of Section 9.22.030 (Agricultural and Resource District Allowable Land Uses), and Chapter 9.59 (Environmentally Sensitive Habitat Area Protection and Preservation).

2. Critical facilities. Critical facilities within the :NH combining zone are limited as follows.

a. Critical facilities defined. For the purposes of this Section, the following are considered critical facilities:

(1) Hazardous facilities. Hazardous substance storage reservoirs, including gasoline, natural gas, oil, industrial waste, and any other substances on the EPA list of hazardous substances.

(2) Essential facilities. Hospitals, fire and police stations, emergency control centers, power plants, power substations, designated emergency communication facilities, schools and other similar uses that must be available to operate after an emergency.

(3) High risk facilities. Auditoriums, hotels, large motels, major office buildings, theaters, high density apartments, and other similar uses that accommodate large numbers of people.

b. Prohibited areas. Critical facilities are prohibited in:

(1) The High Liquefaction Hazard Area (Category I) as shown in Seismic Safety Element.; and

(2) Coastal High Hazard Areas (Tsunami), as defined in Article 10 (Glossary).

c. Design standards.

(1) Critical Facilities should be designed to function at peak efficiency after a magnitude 7.7 earthquake in the Mad River Fault Zone.

(2) Site specific investigations, as indicated by the Geologic Hazards Review process (Chapter 9.62), shall be required prior to the construction of Critical Facilities. If it is found that engineering techniques cannot mitigate the hazards to within acceptable risk levels appropriate to the intended land use, the location of the proposed development should be reconsidered.

9.28.060 - Neighborhood Conservation Area (:NCA) Combining Zone

A. Purpose. The :NCA combining zone is applied to areas identified by General Plan Policy H-4, to ensure that new construction, modifications or alterations of structures are harmonious with existing neighborhood character, and that historical resources are protected.

B. Applicability. The :NCA combining zone may be combined with any primary zoning district established by Section 9.12.020 (Zoning Map and Zoning Districts).

C. Land use and development standards. Proposed development and new land uses on a site within the :NCA combining zone shall comply with the requirements of the primary zoning district, all other applicable provisions of this Land Use Code, and the provisions of this Section.

D. Design Review requirements. The Design Review process shall be required for each structure proposed within a Neighborhood Conservation Area (NCA) including single-family structures, historic structures, and existing structures with exterior alterations or renovations except as exempted in Subsection 9.72.040 (B)(7)(b) of this Land Use Code.

1. Considerations for review. When reviewing a project within the :NCA combining zone, the review authority shall consider the following elements:

a. The height and mass of new structures should be roughly consistent with those of adjacent buildings;

b. New structures should not violate an established rhythm along the street – "rhythm" refers to the relationship of building masses to the spaces between them;

c. Certain basic architectural design elements of the new structures could reflect those of the old; for example, the facade of a new structure might be consistent with a basic vertical or horizontal orientation of the facades of its neighbors, or a new structure could have the same roof shape as surrounding buildings, or a new structure could borrow the front facade concepts that are found within the neighborhood.

d. Landscape elements, such as walks, fences, and planting masses should be encouraged to preserve or extend continuity between structures – large trees and shrubs should be preserved.

e. New development should take into account the location and design of existing off-street parking conditions within the neighborhood, such as driveways and garages.

2. Finding required for approval. Design Review approval within the :NCA combining zone shall require that the review authority first find that the design of the proposed structure, alteration or addition is compatible with and does not destroy the historical or architectural character of the property and the neighborhood conservation area.

9.28.070 - Planned Development (:PD) Combining Zone

A. Purpose. The :PD combining zone is intended to allow development of land as a single unit by taking advantage of modern site planning techniques to result in a more efficient use of land and a better living environment than is otherwise possible through strict application of development standards. The objective is to provide a means for project design to more effectively respond to on-site environmental resources, adjacent neighborhood character, and community needs, than a project that is possible only in compliance with the requirements of the primary zoning district.

B. Applicability. The :PD combining zone may be combined with any primary zoning district established by Section 9.12.020 (Zoning Map and Zoning Districts). The :PD combining zone may provide for exceptions to development standards, including but not limited to: site coverage; density; lot area, width and depth; ground coverage; yard; height; parking; loading; sign; and landscaping requirements of the primary zoning district applicable to the site.

C. Permit requirements. Planned Development Permit approval in compliance with Section 9.72.070 (Planned Development Permit) shall be required for all development in a :PD combining zone.

D. Land use and development standards. Proposed development within the :PD combining zone shall comply with the land use activity requirements of the primary zoning district, and all other applicable provisions of this Land Use Code, except to the extent modified by the approved Planned Development Permit, and except as follows.

1. Allowable density. The Planning Commission may allow an increase of up to 20 percent over the amount of floor area or number of units permitted depending upon the nature of the site and design of the structures in relation to the surrounding area.

The 20 percent increase in the permitted density or floor area is in addition to any increase permitted by Chapter 9.31 (Density Bonuses).

2. **Bike and pedestrian facilities.** In addition to any required open space land, the project developer shall dedicate land for bicycle and pedestrian route facilities if the project is adjacent to or contains a proposed route in the adopted Pedestrian and Bicycle Master Plan or in the Transportation Element of the General Plan.

   a. The developer shall dedicate land for bicycle and pedestrian route facilities which are available for the use, safety, and enjoyment of the general public. The location of the land dedicated for the bicycle and pedestrian route facilities shall generally conform to the location of the proposed route as designated in the Master Plan or in the Transportation Element. The cost of any improvements installed by the developer for the bicycle and pedestrian facility may be deducted from any park-in-lieu fee or recreation fee for new construction requirements of the development.

   b. In the case of a project that is not adjacent to, or that does not contain a proposed route of an adopted system, the developer may be required to dedicate bicycle or pedestrian route facilities for the use, safety, and enjoyment of the residents of the project. The type, alignment, and location of the bicycle or pedestrian route facilities shall be appropriate to the size, character and location of the project, as determined by the Planning Commission.

   c. Where practical, the bicycle and pedestrian route facilities shall provide access to a neighboring school, playground, shopping area, or other community facility, or to an adjacent street which, in the determination of the Planning Commission, is suitable for bicycle and/or pedestrian traffic.

9.28.080 - Plaza Area (:PA) Combining Zone

A. **Purpose.** The :PA combining zone establishes special standards for the Plaza area to address its unique character, including its predominant architecture. In conjunction with the underlying CC (Commercial - Central) primary zoning, the standards of this Section are intended to encourage development or redevelopment in a manner consistent with the unique character of the Plaza, while maintaining compatibility with the remainder of the Central Business District.

B. **Applicability.** The :PA combining zone may be applied only to parcels adjacent to and facing the Plaza. This shall include parcels within the four half-blocks opposite the sides of the Plaza and parcels opposite the four corners of the Plaza.

C. **Land use and development standards.** Proposed development and new land uses within the :PA combining zone shall comply with the requirements of the primary zoning district, and all other applicable provisions of this Land Use Code, except that:

   1. Within the :PA combining zone, but not within the remainder of the CC zone, a residential use may be located only in upstairs or alley-frontage locations. Ground floor, street-frontage locations shall be used only for non-residential purposes.

   2. The vision clearance requirements of Section 9.30.040.E (Height limit at streets) do not apply within the :PA combining zone.

3. Any new development shall incorporate an appropriate combination of project enhancements. Potential enhancements include, but are not limited to the following:

- Special paving materials in parking lots
- public art, including sculpture and murals
- outdoor spaces for public use
- street trees or street furniture
- fountains or other water features
- secondary pedestrian access from alleys
- balconies or decks on upper floors
- sidewalk and/or entry mosaics or decorative tile
- special architectural features
- flower beds
- window boxes
- courtyards
- awnings
- planted wall trellises
- recessed entryways

9.28.090 - Special Considerations (:SC) Combining Zone

A. Purpose. The :SC combining zone is intended to identify areas of the City where certain specific parcels have unique characteristics and/or limitations that require careful consideration when development or a change of use occurs.

B. Applicability. The :SC combining zone may be combined with any residential, commercial, industrial, or public facility zoning district established by Section 9.12.020 (Zoning Map and Zoning Districts). When combined with a primary residential zoning district, the :SC designation shall be shown as :SCR (Special Considerations - Residential) on the Zoning Map. When combined with a primary commercial, industrial, or public facility zoning district, the :SC designation shall be shown as :SCC (Special Considerations - Commercial), :SCI (Special Considerations - Industrial), or as :SPC (Special Considerations Public Facility) on the Zoning Map.

C. Land use and development standards. Proposed development and new land uses within the :SCR, :SCC, :SCI, and :SCP combining zone shall comply with the requirements of the primary zoning district, and all other applicable provisions of this Land Use Code, including the specific :SC combining zone requirements in Sections 9.24.070 (Residential Special Considerations), and 9.26.070 (Commercial, Industrial, and Public Facility Special Considerations).

D. Finding required for approval. Project approval within the :SC combining zone shall require that the review authority first find that the project development and design is in conformance with the standard(s) as specified in Section 9.24.070 or Section 9.26.070 of this Land Use Code. If a finding for conformance cannot be made, then a justification based on changed circumstances or a better project design shall be made.

9.28.100 - Wetland Protection (:WP) and Stream Protection (:SP) Combining Zones

A. Purpose. The :WP combining zone is applied to sites and areas with or adjacent to wetlands. The :SP combining zone is applied to sites and areas with or adjacent to streams and tidelands. Both of the combining zones are intended to protect these significant environmental resources from destruction and degradation, and to retain and enhance the resources as valuable natural, scenic, and recreational amenities as appropriate.

B. Applicability. The :WP and :SP combining zones are applied to property in compliance with the provisions of Chapter 9.59 (Environmentally Sensitive Habitat Area Protection and Preservation), and may be combined with any primary zoning district established by Section 9.12.020 (Zoning Map and Zoning Districts).

C. Land use and development standards. Proposed development and new land uses within the :WP and :SP combining zones shall comply with the requirements of Chapter 9.59 (Environmentally Sensitive Habitat Area Protection and Preservation), the primary zoning district, and all other applicable provisions of this Land Use Code.

ARTICLE 3

Site Planning and Project Design Standards

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CHAPTER 9.30 -STANDARDS FOR ALL DEVELOPMENT AND LAND USES

Sections:

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9.30.020 - Applicability
9.30.030 - Fences, Walls, and Screening
9.30.040 - Height Limits and Exceptions
9.30.050 - Noise Standards
9.30.060 - Site Coverage Exception
9.30.070 - Outdoor Lighting
9.30.080 - Performance Standards
9.30.090 - Setback Requirements and Exceptions
9.30.100 - Solid Waste/Recyclable Materials Storage

9.30.010 - 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 and any applicable specific plan.

9.30.020 - Applicability

The requirements of this Chapter shall apply to all proposed development and new land uses, except as specified in Chapter 9.90 (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 Articles 4 (Standards for Specific Land Uses) and 5 (Resource Management). If there is a conflict, the standards in Articles 4 and 5 shall control.

9.30.030 - Fences, Walls, and Screening

A. Applicability. The requirements of this Section apply to all fences and walls unless otherwise stated, except that these requirements 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 screening shall comply with the height limits shown in Table 3-1.

Table 3-1 - Maximum Height of Fences, Walls, and Screening

Location	Maximum Height
Within required front or street side setback	3 ft within a vision clearance area (see Section 9.30.040.E), 3 ft. within 5 feet of a street property line (an exception may be allowed for a greater height through a Minor Use Permit), and 6 ft elsewhere.
Within required interior side or rear setback	6 ft
Outside of required setbacks	6 ft. Up to 8 ft may be authorized by Design Review. (A fence higher than 6 ft also requires a Building Permit.)

2. Requirements for increased height. Where Table 3-1 allows increased fence, wall, or hedge height with Design Review approval, 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, including any materials directly attached to the fence.

2. The height of fencing atop a wall shall be measured from the base of the wall or sidewalk, whichever results in a greater height.

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.

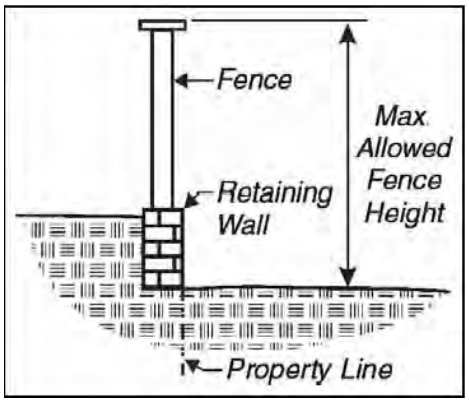

Figure 3-1 Fence Height Measurement

D. Specific fencing requirements.

1. Fencing between different land uses. Fencing between different land uses shall be required 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. Swimming pools, hot tubs, and similar features. Swimming pools/spas and other similar water features shall be fenced in compliance with California Building Code (CBC) requirements, regardless of the other requirements of this Section.

4. Temporary fencing. Temporary fencing may be necessary to protect archaeological or historic resources, trees, or other similar sensitive features during site preparation and construction. Temporary fencing may also be used for public safety purposes, during public events, for hazardous sites, and for construction sites. 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, garden protection, special security needs, or required by a City, State, or Federal law or regulation.

1. Barbed wire, or electrified fence, except within the AE, AR, and NR zoning districts;

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

3. Chain link and other wire fencing within the front and street side yards except in the IL, IG and PF zoning districts, or where other screening may be required by Design Review; and

4. Nails, broken glass, or other sharp objects on the top of fences or walls.

F. Screening. This Subsection establishes standards for the screening and separation of adjoining residential and nonresidential land uses, and certain outdoor activity areas.

1. When required. Screening in compliance with Subsection F.2 (Screening standards) shall be required:

a. On the property line of a site with a non-residential land use adjacent to a site in a residential zoning district or with an existing residential use;

b. To screen an open area used to display goods or materials for sale from abutting parcels;

c. To provide relief from adjacent noise sources exceeding 60 dBA when the screening will comply with all other requirements of this Section;

d. To screen industrial uses from the view of a public right-of-way; and

e. To screen outdoor mechanical equipment, loading docks, and solid waste and recycling areas from the view of public rights-of-way and residential uses.

Outdoor storage areas shall be screened in compliance with Section 9.42.150 (Outdoor Storage). Parking areas shall be screened in compliance with Section 9.34.050.A (Landscaping Location Requirements - Parking areas).

2. Screening standards. Where required by Subsection F.1, screening shall be provided as follows.

a. The screen shall consist of plant materials and a solid wall of masonry, wood, 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), except that a fence or wall provided to screen a commercial or industrial use from a residential use may exceed six feet if the review authority determines that the additional height is necessary to separate the two uses.

c. The wall shall be decorative, with a graffiti resistant surface, subject to the approval of the review authority.

d. A landscaping strip with a minimum width of five feet shall be installed between any screening wall and a public street. See Chapter 9.34 (Landscaping Standards).

e. The screening requirements of this Subsection F.2 may be waived through Minor Use Permit approval if the review authority first determines that:

(1) The relationship of the proposed uses makes 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.

9.30.040 - 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 Land Use 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, by Article 4 (Standards for Specific Land Uses), or through the Minor Use Permit process.

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 that is parallel and located the allowed number of feet above the natural 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.

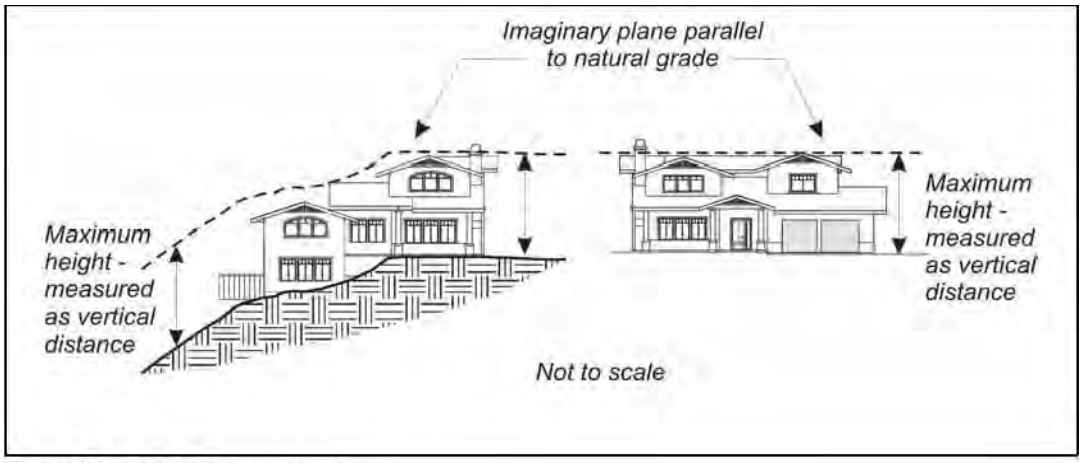

Figure 3-2 - Height Measurement

D. Exceptions to height limits. The following structures and structural features may exceed the height limits of this Land Use 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, 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 9.44 (Telecommunications Facilities).

E. Height limit at street. 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 CC zoning district shall be designed to provide a vision clearance area for pedestrian and traffic safety. See Figure 3-3.

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

a. Street intersections. The vision clearance area shall be defined by measuring 20 feet from the intersection of the front and street side property lines or public street right-of-way (or the extension of the property lines where the corner is improved with curb, gutter, and sidewalk) and connecting the lines across the property.

b. Driveways and interior property lines. The vision clearance area shall be defined by measuring 15 feet along a driveway or interior property line from the intersection of the driveway or interior property line with the street property line, and 15 feet along the street line, away from the driveway or interior property line, and connecting the lines across the intervening property.

c. Parking. No parking spaces shall be located within a vision clearance area.

2. Height limit. No structure, sign, or landscape element shall exceed 36 inches in height within the vision clearance area, unless approved by the Zoning Administrator, in consultation with the Public Works Director and Police Chief, except for tree canopies trimmed to a minimum of 10 feet above grade.

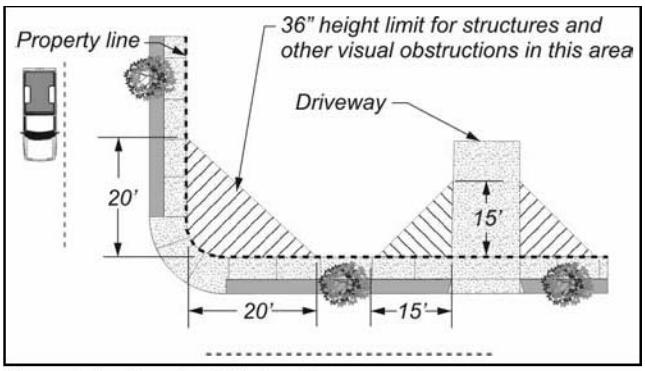

Figure 3-3 - Required Vision Clearance Area

9.30.050 - Noise Standards

A. Purpose. This Section implements the policies of the Noise Element of the General Plan, and provides standards for noise mitigation that are intended to protect the community health, safety, and general welfare by limiting exposure to the unhealthful effects of noise.

B. Applicability. No use, activity, or process shall exceed the maximum allowable noise levels established by this Section, except for the following noise sources:

1. Emergencies. Public safety warning devices (e.g., ambulance, fire, and police sirens), sound for alerting persons to the existence of an emergency, or the performance of authorized emergency work;

2. State or Federal preempted activities. Any activity regulated by State or Federal law;

3. Public health and safety activities. Construction, maintenance, and/or repair operations by public agencies and/or utility companies or their contractors that are serving public interests, and/or protecting the public health, safety, and general welfare;

4. Parks. Public agency sanctioned recreational activities and programs conducted in public parks; and

5. Solid waste collection. The authorized collection of solid waste.

C. Definitions. Definitions of the technical terms used in this Section may be found in Article 10 (Glossary) under "Noise."

D. Noise source standards.

1. Stationary and transportation source noise level limitations. No use, activity, or process within the City shall generate noise in excess of the levels identified by Tables 3-2 and 3-3, as the noise is measured at the property line of a noise sensitive land use identified in Tables 3-2 and 3-3.

a. If the measured ambient noise level exceeds the applicable noise level standard in any category shown in the tables, the applicable standards shall be adjusted to equal the ambient noise level.

b. If the noise source being evaluated is continuous and cannot reasonably be discontinued or stopped to allow measurement of the ambient noise level, the noise level measured while the source is in operation shall be compared directly to the applicable noise level standards identified in the tables.

Notwithstanding the above requirements, no person shall allow or cause the generation of any noise of a type, volume, pitch, tone, repetition, or duration that would be found to be a nuisance by a reasonable person beyond the boundaries of the property where the noise is generated.

Table 3-2 - Maximum Allowable Noise Level by Receiving Land Use

Noise Level Descriptor	Maximum Exterior Noise Level			Maximum Interior Noise Level		
	7 am - 7 pm	7 - 10 pm	10 pm - 7 am	7 am - 7 pm	7 - 10 pm	10 pm - 7 am
Dwellings, Transient Lodging, Hospitals, Extended Care, and Similar Uses						
Hourly L_{eq}	55 dB	50 dB	45 dB	45 dB	40 dB	35 dB
Maximum	75 dB	75 dB	70 dB	65 dB	65 dB	60 dB
Meeting Facilities, Auditoriums, Theaters, Libraries, Schools, and Similar Uses						
Hourly L_{eq}	55 dB	55 dB	n/a	40 dB	40 dB	n/a
Maximum	75 dB	75 dB	n/a	60 dB	60 dB	n/a

Notes:
1. The City can impose noise level standards up to 5 dB less than those specified above based upon determination of existing low ambient noise levels in the vicinity of the project site.
2. These noise level standards do not apply to residential units established in conjunction with industrial or commercial uses (e.g., caretaker dwellings).
3. The standards will be applied at the outdoor activity areas of the receiving land use, and at the building facade for upper floor receivers which do not have an outdoor activity area facing the noise source. Where no outdoor activity area is identified, the City has the option to apply only the interior noise level performance standards.

Table 3-3 - Maximum Allowable Transportation Noise Exposure

Noise Sensitive Land Use	Outdoor Activity Areas (1)	Interior Spaces	
	dBA L_{dn}	dBA L_{dn}	dBA L_{eq} (2)
Residential	60 (3)	45	N/A
Transient lodging	60 (4)	45	N/A
Hospitals, extended care	60 (3)	45	N/A
Theater, auditorium	N/A	N/A	35
Meeting facility, public or private	60 (3)	N/A	40
Offices	N/A	N/A	45
School, library, museum	N/A	N/A	45
Playground, park	70	N/A	N/A

Notes:

1. Where the location of outdoor activity areas is unknown, the exterior noise level standard shall be applied to the property line of the receiving land use.
2. As determined for a typical worst-case hour during periods of use.
3. Where it is not possible to reduce noise in outdoor activity areas to 60 dB Ldn/CNEL or less using a practical application of the best-available noise reduction measures, an exterior noise level of up to 65 dB Ldn/CNEL may be allowed provided that available exterior noise level reduction measures have been implemented and interior noise levels are in compliance with this table.
4. In the case of hotel/motel facilities or other transient lodging, outdoor activity areas such as pool areas may not be included in the project design. In these cases, only the interior noise level criterion will apply.

2. Limitation on hours of construction. In order to allow construction schedules to take advantage of the weather and normal daylight hours, and to ensure that nearby residents as well as nonresidential activities are not disturbed by the early morning or late night activities, construction site tool and equipment noise shall be limited in compliance with Table 3-4 or as required by conditions of approval.

Table 3-4 - Allowable Hours of Construction

Day	Allowable Hours
Monday through Friday	8:00 a.m. to 7:00 p.m.
Saturday	9:00 a.m. to 7:00 p.m.
Sunday, Holidays	No heavy equipment-related construction activities allowed

All stationary and construction equipment shall be maintained in good working order, and fitted with factory approved muffler systems.

3. Intrusive noise. When intrusive noise sources have been identified through project review, the review authority shall require that the detrimental effects (sleep interference or the potential for annoyance) be disclosed to neighboring receptor properties.

4. Rhythmic, recurring, or impulsive noise sources. When noise sources have been identified to be rhythmic, reoccurring, or impulsive in nature or comprised mainly of music or speech, they may comply with applicable noise level criteria and still be annoying to individuals. When these types of noise sources have been identified, they may be subject to additional mitigation or mediation, and shall be subject to the criteria in Table 3-3, with a -5 dB penalty applied to the criteria.

E. Standards for sensitive receptors. New noise sensitive land uses as identified in Table 3-3 shall not be allowed where the noise level from existing non-transportation noise generators will exceed the noise level standards in Table 3-2, or where projected levels of transportation noise will exceed the levels specified in Table 3-3, unless effective noise mitigation measures are incorporated into project design to maintain outdoor and indoor noise levels on the receptor site in compliance with Tables 3-2, and 3-3.

1. New noise-sensitive uses. New construction and retrofits at existing buildings shall include appropriate insulation, glazing, and other sound attenuation measures so that they comply with standards in Table 3-3.

2. Mitigation required. Noise that may affect a proposed noise sensitive land use shall be mitigated to not exceed the noise level standards in Table 3-2 at the property line of any noise-sensitive land use identified in Table 3-3. Appropriate mitigation measures include:

a. Noise attenuation measures, and stationary noise source controls shall include the use of barriers, setbacks, site design, baffles, enclosures, silencers, and improved facade construction techniques.

b. Where noise mitigation measures are required, mitigation shall occur primarily through site planning and project design, where feasible. The use of noise barriers shall be considered a means of achieving the noise standards only after all other practical design-related noise mitigation measures have been integrated into the project.

F. Acoustical analysis. Where the Director determines that a proposed project is a noise sensitive land use (such as hospitals, schools, and health care facilities), or may generate noise in excess of any limit established by Tables 3-2 or 3-3, and/or where the use may generate noise in outdoor areas in excess of 60 dBA, the planning permit application for the use shall include an acoustical analysis, which shall:

1. Be the financial responsibility of the applicant;

2. Be prepared by a qualified person experienced in the fields of environmental noise assessment and architectural acoustics;

3. Include noise level measurements, with sufficient sampling periods and locations, to adequately describe local conditions and the predominant noise sources;

4. Estimate existing and projected cumulative (20-year) noise levels in terms of Ldn or CNEL and/or the standards of Table 3-2, and compare those levels to the requirements of this Section and the policies of the Noise Element;

5. Recommend appropriate mitigation to achieve compliance with this Section and the policies and standards of the Noise Element, giving preference to proper site planning and design over mitigation measures which require the construction of noise barriers or structural modifications to buildings that contain noise-sensitive land uses;

6. Estimate noise exposure after prescribed mitigation measures are implemented; and

7. Describe a post-project assessment program that may be used to evaluate the effectiveness of the proposed mitigation measures.

G. Noise measurement. Exterior noise levels shall be measured at the property line of the noise sensitive land use receiving the noise. Noise measurement shall be made with a sound level meter using the 'A' weighted scale at slow meter response. Fast meter response shall be used only for an impulsive noise.

9.30.060 - Site Coverage Exception

Lots which do not meet the standard for area or which are smaller than the specified minimum average lot size in the base zone may be developed with more site coverage than allowed by the base zone. The reduction in open space requirements may be allowed through the minor use permit process or on a proportional basis to the extent to which the lot area is substandard. For example, a 4,000 square foot lot in an RL zone (a lot which would be 67 percent of the minimum average lot size of 6,000 square feet) could be developed with site coverage equal to 1.33 percent of the 50 percent lot coverage requirement of the base zone (i.e., 1.33 x 0.50 = 67% site coverage for a 4,000 square foot lot which would equate to 2,680 square feet of maximum site coverage).

9.30.070 - Outdoor Lighting

A. Standards for all outdoor lighting. Outdoor lighting on private property except for commercial or industrial parking shall comply with the following requirements. See Subsection B. for commercial and industrial parking area lighting requirements.

1. An outdoor light fixture shall be limited to a maximum height of 14 feet or the height of the nearest building, whichever is less.

2. Outdoor lighting shall utilize energy-efficient (high pressure sodium, low pressure sodium, hard-wired compact fluorescent, or other lighting technology that is of equal or greater energy efficiency) fixtures and lamps and motion sensors and/or daylight sensors unless determined infeasible by the Director.

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

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

   b. 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.

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

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

B. Commercial/industrial parking area standards. The review authority may require compliance with the latest edition of the *Lighting Handbook* by the Illuminating Engineering Society of North America.

9.30.080 - 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. Air emissions. Other than as permitted by the North Coast Unified Air Quality Management District, no visible dust, gasses, or smoke shall be emitted, except as necessary for the heating or cooling of structures, and the operation of motor vehicles on the site.

D. 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.

E. 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 Director.

1. Standards for all construction activities. The Director may require the following control measures for construction activities when necessary:

   a. Water all active construction areas twice per day and use erosion control measures to prevent water runoff containing silt and debris from entering the streets and storm drain system;

   b. Cover trucks hauling soil, sand, and other loose material;

   c. Pave, water, or apply non-toxic soil stabilizers on unpaved access roads and parking areas;

   d. Sweep and collect (i.e., vacuum) paved access roads and parking areas daily; and

   e. Sweep and collect (i.e., vacuum) streets daily if visible material is carried onto adjacent public streets.

2. Additional standards for large construction sites. When construction is proposed on a site of four acres or larger, the following measures will be required in addition to those above when determined by the Director to be necessary:

   a. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas;

   b. Enclose, cover, water, or apply non-toxic soil binders to open materials stockpiles;

   c. Limit traffic speeds to 15 mph on unpaved access roads;

   d. Install erosion control measures to prevent silt runoff onto public roadways; and

   e. Replant vegetation in disturbed areas within 10 days after project completion.

   f. Install wheel washers for exiting trucks, or wash all equipment leaving site;

   g. Install wind breaks, or plant trees/vegetation at windward sides of construction areas, or avoid removing existing vegetation which acts as a windbreak;

   h. Suspend excavation and grading activity when winds exceed 25 mph; and

   i. Limit area subject to excavation, grading, and other construction activities at any one time.

F. 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.

G. Light and glare. Outdoor lighting shall comply with the requirements of Section 9.30.070 (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. The City's noise standards are in Section 9.30.050 (Noise Standards).

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.

9.30.090 - Setback Requirements and Exceptions

A. Purpose. This Section provides standards for the location, required size, and allowable uses of 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 another requirement of this Land Use Code; and

c. As otherwise provided by this Section or through the issuance of a Minor Use Permit.

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. Exemptions from setback requirements. The minimum setback requirements of this Land Use Code do not apply to the following:

   a. A projection into a required setback allowed by Subsection E. or projection into a right-of-way if granted by a permanent easement from the City (e.g., awnings and bay windows);

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

   c. A deck, earthwork, step, terrace, or 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;

   d. A sign in compliance with Chapter 9.38 (Signs);

   e. A retaining wall less than 30 inches in height above finished grade.

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.

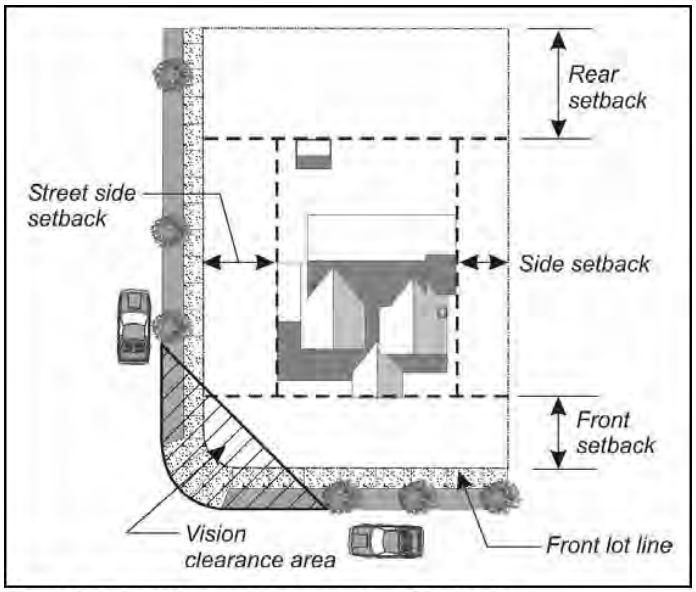

Figure 3-4 - Location and Measurement of Setbacks

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 follows. The front property line is the most narrow dimension of a lot adjacent to a street.

   a. 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.

b. Infill development within previously approved projects. 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 Land Use Code.

c. 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.

d. Corner lots. 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 C.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 shall not be occupied by a structure other than those identified by Subsection B.2 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, machinery, or other materials, 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. 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.

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

E. **Allowed projections into setbacks.** Where allowed in the applicable zoning district, 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 3-5. See also Figure 3-5. These requirements are modified for accessory structures by Section 9.42.030 (Accessory Structures).

Table 3-5 - Allowed Projections into Setbacks

Projecting Feature	Allowed Projection into Specified Setback		
	Front Setback	Side Setback	Rear Setback
Balcony, deck, covered or uncovered open porch - The width of which does not exceed 50% of the length of the wall to which it is attached	36 in	36 in (2)	36 in (2)
Balcony, deck, landing, porch, stairway - Uncovered, unenclosed, and less than 30 in. above grade	25% of setback	May project to property line (2)	
Balcony, deck, landing, porch, stairway - Uncovered and unenclosed, 30 in. or more above grade	6 ft	30 in (1)(2)	6 ft (1)(2)
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 (2)	20% of setback (2)
Balcony, deck, landing, porch, stairway - Covered and enclosed	Not allowed in setback		
Bay window, or similar projecting feature	36 in	36 in	36 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 to a side property line than 36 inches.

(2) Feature shall not project into any Natural Area (per Subsection 9.52.040.A.2) or into any Environmental Buffer Area (per Subsection 9.59.020.B) as described in this Land Use Code.

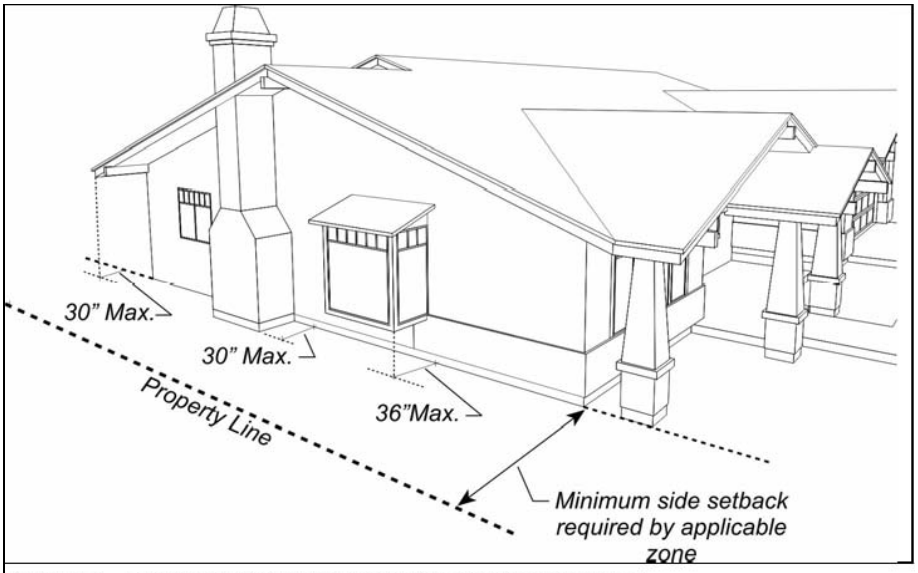

Figure 3-5 - Examples of Allowed Projections into Side Setback

F. Setback requirements for specific structures:

1. Accessory structures. See Section 9.42.030 (Accessory Structures).

2. Fences. See Section 9.30.030 (Fences, Walls, and Screening).

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 Land Use Code for detached accessory structures or as exempt by the Director. (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 shall be set back a minimum of five feet from side and rear property lines, and shall not be located within a front setback.

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.

9.30.100 - 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, and to existing multi-family residential or nonresidential development when changes to a structure are proposed that require a Building Permit, and are required by this Land Use Code to have Design Review approval.

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 review authority to adequately serve the development proposed or existing on the site.

D. Location requirements. Solid waste and recyclable materials collection and storage areas shall be located in compliance with the requirements of the applicable zoning district, and the following requirements.

1. The collection and storage area shall be located inside a designated structure, on the outside of a structure enclosed within an approved fence or wall, a designated interior court or yard area with appropriate access, or in a rear yard and/or interior side yard. An exterior storage area shall not be located in any required front setback, street side setback, or in any area of required parking, landscaping or open space.

2. Each collection and storage area shall be conveniently accessible to residents and employees. Each collection and storage area within a multi-family residential project shall be located within 250 feet of the dwellings it serves.

3. Any driveways or aisles shall provide unobstructed access for collection vehicles and personnel and provide at least the minimum clearance required by the collection methods and vehicles used by the designated collector. Where a site is served by an alley, each exterior collection and storage area shall be directly accessible to the alley.

4. Each multi-family and non-residential outdoor collection and storage area shall be screened from view. Solid waste receptacles for single-family homes should be stored within an enclosed garage or behind a fence.

E. Design and construction. Each storage area shall be designed and constructed to:

1. Be compatible with the surrounding structures and land uses;

2. Be properly secured to prevent access by unauthorized persons, while allowing authorized persons access for disposal of materials;

3. Provide a concrete pad within the fenced or walled area, and a concrete apron to facilitate the handling of individual bins or containers;

4. Protect the areas and the individual bins or containers provided within from adverse environmental conditions which might render the collected materials unusable; and

5. Be screened from view on at least three sides. The design of screening structures shall be architecturally compatible with the surrounding structures and subject to the approval of the Director.

6. Waste grease receptacles shall be placed in secondary containment vessels and protected from the rain.

F. Signs. A solid waste and recyclable materials collection and storage area for a project of four or more dwelling units, a commercial development with two or more separate businesses, or any industrial use shall be provided identification signs as follows.

1. The minimum sign size, exterior or interior, shall be as necessary to identify the area to users, as determined through Design Review.

2. Exterior signs identifying recycling areas shall be a maximum of four square feet per sign face, and shall be no higher than six feet, or may be attached to a wall. The maximum size limit may be increased through Design Review if warranted by the nature of the recycling area.

CHAPTER 9.31 -DENSITY BONUSES

Sections:

9.31.010 - Purpose
9.31.020 - Eligibility for Bonus, Incentives or Concessions
9.31.030 - Allowed Density Bonuses
9.31.040 - Allowed Incentives or Concessions
9.31.060 - Bonus and Incentives for Housing with Child Care Facilities
9.31.070 - Continued Availability
9.31.080 - Location and Type of Designated Units
9.31.090 - Processing of Bonus Requests
9.31.100 - Control of Resale
9.31.110 - Judicial Relief, Waiver of Standards

9.31.010 - Purpose

As required by Government Code Section 65915, this Chapter offers density bonuses, and incentives or concessions for the development of housing that is affordable to the types of households and qualifying residents identified in Section 9.31.020. This Chapter is intended to implement the requirements of Government Code Section 65915, et seq., and the Housing Element of the City's General Plan to assist with the development of housing above the maximum allowable residential density.

9.31.020 - Eligibility for Bonus, Incentives or Concessions

In order to be eligible for a density bonus and other incentives or concessions as provided by this Chapter, a proposed housing development shall comply with the following requirements, and satisfy all other applicable provisions of this Land Use Code, except as provided by Section 9.31.040 (Allowed Incentives or Concessions).

A. Resident requirements. The housing development shall be designed and constructed so that:

1. At least 10 percent of the total number of proposed units are for lower income households, as defined in Health and Safety Code Section 50079.5; or

2. At least five percent of the total number of proposed units are for very low income households, as defined in Health and Safety Code Section 50105; or

3. At least 10 percent of the total dwelling units in a condominium project as defined in Civil Code Section 1351(f), or in a planned development as defined in Civil Code Section 1351(k), for persons and families of moderate income, as defined in Health and Safety Code Section 50093; or

4. The project is a senior citizen housing development as defined by Civil Code Sections 51.3 and 51.12.

A density bonus granted in compliance with Section 9.31.030 shall not be included when determining the 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.

C. Condominium conversion projects. A condominium conversion project for which a density bonus is requested shall comply with the eligibility and other requirements in Government Code Section 65915.5.

D. Minimum Density. The project must develop housing units over the maximum density otherwise allowed by the applicable General Plan designation and zoning district.

9.31.030 - Allowed Density Bonuses

The amount of a density bonus allowed a housing development shall be determined by the City in compliance with this Section.

A. Density bonus. A housing project that complies with the eligibility requirements in Subsections 9.31.020.A.1, A.2, or A.3 shall be entitled to density bonuses as follows, unless a lesser percentage is elected by the applicant.

1. General density bonus. The City shall grant at least a 20 percent increase in the number of dwelling units normally allowed by the applicable General Plan designation and zoning, except that:

   a. For each one percent increase above 10 percent in the percentage of units affordable to lower income households, the density bonus shall be increased by 1.5 percent up to a maximum of 35 percent; and

   b. For each one percent increase above five percent in the percentage of units affordable to very low income households, the density bonus shall be increased by 2.5 percent, up to a maximum of 35 percent.

2. Bonus for condominium or planned development project. A density bonus for a condominium project that complies with the eligibility requirements in Subsection 9.31.020.C shall consist of at least a five percent increase in the number of dwelling units normally allowed by the applicable General Plan designation and zoning district, except that for each one percent increase above 10 percent of the percentage of units affordable to moderate income households, the density bonus shall be increased by one percent up to a maximum of 35 percent.

3. Density bonus for land donation. When an applicant for a tentative map, parcel map, or other residential development approval donates land to the City in compliance with this Subsection, the applicant shall be entitled a density bonus for the entire development, only if the project proposes to develop housing units over the maximum density otherwise allowed by the applicable General Plan designation and zoning district, as follows; provided that nothing in this Subsection shall be construed to affect the authority of the City to require a developer to donate land as a condition of development.

   a. Basic bonus. The applicant shall be entitled to a 15 percent increase above the otherwise maximum allowable residential density under the applicable General Plan designation and zoning.

b. Additional bonus. For each one percent increase above the minimum 10 percent land donation described in Subsection 9.31.030.c.(2), the density bonus shall be increased by one percent, up to a maximum of 35 percent. This increase shall be in addition to any increase in density required by Subsections 9.31.030.A.1 and 9.31.030.A.2, up to a maximum combined mandated density increase of 35 percent.

c. Eligibility for bonus. An applicant shall be eligible for the increased density bonus provided by this Subsection if all of the following conditions are met.

(1) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(2) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(3) The transferred land is at least one acre, or of sufficient size to permit development of at least 40 units, has the appropriate General Plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible. No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the local government may subject the proposed development to subsequent design review to the extent authorized by Government Code Section 65583.2(I) if the design is not reviewed by the City prior to the time of transfer.

(4) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Section 9.31.070 (Continued Availability), which shall be recorded on the property at the time of dedication.

(5) The land is transferred to the City or to a housing developer approved by the City. The City may require the applicant to identify and transfer the land to the developer.

(6) The transferred land shall be within the boundary of the proposed development or, if the City agrees, within one quarter mile of the boundary of the proposed development.

B. Greater or lesser bonuses. The City may choose to grant a density bonus greater than provided by this Section for a development that meets the requirements of this Section, or grant a proportionately lower density bonus than required by this Section for a development that does not comply with the requirements of this Section.

C. Density bonus calculations. 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 purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels.

D. Requirements for amendments or discretionary approval. The granting of a density bonus shall not be interpreted, in and of itself, to require a General Plan amendment, Local Coastal Plan amendment, zoning change, or other discretionary approval.

E. Location of bonus units. The developer may locate density bonus units in geographic areas of the housing development other than the areas where the units for the lower income households are located.

9.31.040 - Allowed Incentives or Concessions

A. Applicant request and City approval. An applicant may submit to the City a proposal for the specific incentives or concessions listed in Subsection 9.31.040.C. that the applicant requests in compliance with this Section, and may request a meeting with the Director. The Council shall grant an incentive or concession request that complies with this Section unless the Council makes either of the following findings in writing, based upon substantial evidence:

1. The incentive or concession is not required 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 specified in Section 9.31.020; or

2. The incentive or concession would have a specific adverse impact, as defined in 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.

B. Number of incentives. The applicant shall receive the following number of incentives or concessions.

1. One incentive or concession for a project that includes at least 10 percent of the total units for lower income households, at least five percent for very low income households, or at least 10 percent for persons and families of moderate income in a condominium or planned development.

2. Two incentives or concessions for a project that includes at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a condominium or planned development.

3. Three incentives or concessions for a project that includes at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a condominium or planned development.

C. Type of incentives. The City may, at its sole discretion, grant a density bonus exceeding the state minimum requirements where the applicant agrees to construct a greater number of affordable housing units than required pursuant to Section 9.31.020 and necessary to qualify for the density bonus under this section. If such additional density bonus is granted by the City and accepted by the applicant, the additional density bonus shall be considered an additional concession or incentive for purposes of Section 65915. For purposes of this Section, a concession or incentive shall mean any reduction in site development standards or any modification of zoning or architectural design requirements necessary pursuant to California Government Code Sections 65915(d)(3) or 65915(e) to facilitate the construction of the residential development project at the densities provided for in Section 65915. Concessions or incentives shall also include, but not be limited to, the following categories:

1. Concessions Not Requiring Financial Pro Forma from Applicant. The following concessions and incentives shall be available to the applicant without any requirement that the applicant demonstrate to the City that the requested concession or incentive results in identifiable, financially sufficient, and actual cost reductions to the project pursuant to California Government Code Section 65915(l):

   a. Parking Concessions. The following maximum parking standards, inclusive of handicapped and guest parking, shall apply to the entire project: 0-1 bedroom dwelling unit: 1 onsite parking space; 2-3 bedroom dwelling unit: 2 onsite parking spaces; 4 or more bedroom dwelling unit: 2.5 parking spaces;

   b. Approval of mixed-use (housing and non-residential) development on a site designated for non-residential development by its zoning or General Plan land use designation provided that the residential dwelling units are on the upper floors or rear of commercially or industrially zoned properties where uninterrupted commercial or industrial uses are maintained at the street level and any residential units shall not be more than 25% of the first floor area.

   c. Approval of the Density Bonus Standard as outlined in Section 9.24.050.

2. Concessions Requiring Financial Pro Forma from Applicant. The following concessions and incentives, when requested by the applicant, shall require the applicant to demonstrate to and receive approval from the City Council that the requested concession or incentive results in identifiable, financially sufficient, and actual cost reductions to the project pursuant to California Government Code Section 65915(l):

   a. A reduction of the standards beyond the incentives outlined in Section 9.24.050.

   b. A reduction of the energy efficiency and conservation measures as outlined in Policy RC-8b of the General Plan;

   c. Reduction in the minimum requirements of any of the following: private space; landscape requirements, including for parking lots; and architectural design requirements that exceed the minimum building standards established by local or state building code standards.

d. Reduction in the parking space dimensions, driveway width, parking aisle width, garage and carport dimensions; number of tandem parking spaces; and reduced bicycle parking requirements.

e. Modification of the criteria utilized to calculate the net area used for calculating density.

f. Any other reduction or waiver in site development standards or modification of zoning or architectural design requirements necessary pursuant to California Government Code Sections 65915(d)(3) or 65915(e), or any other proposed concession or incentive not identified in Section 9.31.040.

D. Effect of incentive or concession. The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, zoning change, or other discretionary approval.

9.31.060 - Bonus and Incentives for Housing with Child Care Facilities

A housing development that complies with the resident and project size requirements of Section 9.32.020, and also includes as part of that development a licensed child care 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 Section 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 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 9.31.070 (Continued Availability); 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 9.31.020.

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

9.31.070 - Continued Availability

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 for a density bonus and other incentives and concessions, as follows.

1. Lower income units. The continued availability of lower income units shall be maintained for 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 and moderate income units - Development with public funding. A housing development that receives a direct financial contribution as an additional incentive through participation in the cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, shall maintain the availability of low- and moderate-income units for a minimum of 30 years, as required by Government Code Section 65916.

3. Moderate income units in condominium. 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 rents charged for the housing units in the development that qualify the project for a density bonus and other incentives and concessions, shall not exceed the following amounts during the period of continued availability required by this Section:

1. Lower income units. 30 percent of 65 percent of the area median income, for units targeted for lower income households, as defined in Health and Safety Code Section 50079.5; and

2. Very low income units. 30 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.

C. Occupancy and resale of moderate income condominium or PD units. An applicant shall agree to, and the City shall ensure that the initial occupant of moderate income units that are directly related to the receipt of the density bonus in a condominium project or planned unit development, be persons and families of moderate income, as defined in Health and Safety Code Section 50093.

1. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation.

2. The City shall recapture its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in Health and Safety Code Section 33334.2(e) that promote home ownership. For purposes of this Section, the City's proportionate share of appreciation shall be equal to the percentage by which the initial sale price to the moderate income household was less than the fair market value of the home at the time of initial sale.

9.31.080 - Location and Type of Designated Units

The location, timing of construction, unit size, unit type, exterior appearance and development standards shall be as required by Section 9.32.40 of this Code. The Term of Affordability for Rental Inclusionary Units shall be as required in Section 9.32.080 of this Code. The Term of Affordability and Resale of For-sale Units shall be as required in Section 9.32.090 of this Code.

9.31.090 - Processing of Bonus Requests

Requests for a density bonus and other incentives shall be evaluated and decided as required by Section 9.32.110 (Administration of Inclusionary Units) of this Code. In addition, an application for a density bonus, incentive, concession, waiver, modification, or revised parking standard pursuant to this Section shall be submitted in conjunction with the project application and shall be processed concurrently with all other applications required for the project in the manner provided for in the City's code. The cost of reviewing any required pro forma data submitted as part of the application in support of a request for a concession or incentive, including but not limited to the cost to the City of hiring a consultant to review said pro forma, shall be borne by the applicant. The application shall be submitted on a form provided by the City and shall include, at a minimum, the following information:

A. A site plan showing the total number of units, the number and location of the units dedicated pursuant to California Government Code Section 65915(b), and the number and location of the proposed density bonus units;

B. The level of affordability of the dedicated units;

C. A description of any requested incentives, concessions, waivers or modifications of development standards, or modified parking standards. If the applicant is requesting concessions or incentives identified in Subsection 9.31.040.C.2 the application shall also include pro forma information demonstrating to the City that the requested concession or incentive results in an identifiable, financially sufficient, and actual cost reduction. Where the applicant is requesting the modification or waiver of a development standard or a zoning or architectural design requirement, the applicant shall submit evidence demonstrating that the application of the subject standard or requirement would preclude construction of the project at the densities provided for in California Government Code Section 65915 and that the waiver or modification is necessary to make development of the project financially feasible.

D. If a density bonus is requested for a land donation pursuant to California Government Code Section 65915(h), the application shall show the location of the land to be dedicated and provide evidence that the requirements of Section 65915(h) have been met, thus entitling the project to the requested density bonus.

E. If a density bonus is requested for construction of a child care facility pursuant to California Government Code Section 65915(l), the application shall show the location and square footage of the proposed facility and provide evidence that the requirements of Section 65915(l) have been met, thus entitling the project to the requested density bonus.

9.31.100 - Control of Resale

In order to maintain the availability of for-sale affordable housing units constructed in compliance with this Chapter, the requirements of Subsections 9.32.090.B and Section 9.32.090.C shall apply.

9.31.110 - Judicial Relief, Waiver of Standards

A. **Judicial relief.** The applicant may initiate judicial proceedings if the City refuses to grant a requested density bonus, incentive, or concession.

B. **Waiver of standards preventing the use of bonuses, incentives, or concessions.**

1. As required by Government Code Section 65915(e), the City will not apply a development standard that will have the effect of precluding the construction of a development meeting the criteria of Subsection 9.31.020.A at the densities or with the concessions or incentives permitted by this Chapter.

2. An applicant may submit to the City a proposal for the waiver or reduction of development and zoning standards that would otherwise inhibit the utilization of a density bonus on a specific site, including minimum lot size, side yard setbacks, and placement of public works improvements.

3. The applicant shall show that the waiver or modification is necessary to make the housing units economically feasible.

C. **City exemption.** Notwithstanding the provisions of Subsections 9.31.110.A and 9.31.110.B, nothing in this Section shall be interpreted to require the City to:

1. Grant a density bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction, would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; or

2. Grant a density bonus, incentive or concession, or waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

CHAPTER 9.32 -AFFORDABLE HOUSING REQUIREMENTS

Sections:

9.32.010 - Purpose and Intent
9.32.020 - Definitions
9.32.030 - Inclusionary Housing Requirement
9.32.040 - Standards for Inclusionary Units
9.32.050 - Incentives, Concession, Assistance, and Subsidies
9.32.070 - Alternatives to Inclusionary Units
9.32.080 - Term of Affordability for Rental Inclusionary Units - Rent Costs
9.32.090 - Term of Affordability and Resale of For-Sale Units
9.32.100 - Income, Occupancy, Hazard Insurance, and Maintenance Requirement
9.32.110 - Administration of Inclusionary Units
9.32.120 - Administrative Fees
9.32.130 - Takings Determination
9.32.140 - Enforcement and Penalties

9.32.010 - Purpose and Intent

The requirements of this Chapter are intended to:

A. Assist in achieving the City's goals for adequate housing by requiring residential projects to include a minimum percentage of housing units affordable to households of very-low, low, or moderate income to provide for a program of incentives and public subsidy to assist in this effort, and to implement the mixed income policies of the Housing Element of the City's General Plan.

B. Establish standards and procedures to encourage the development of housing that is affordable to a range of households with varying income levels.

9.32.020 - Definitions

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

9.32.030 - Inclusionary Housing Requirement

A. Number and affordability of inclusionary units required. Each new and substantially rehabilitated residential project shall be designed and constructed to include Inclusionary units to be rented, leased, or sold to very-low, low, or moderate income households. The residential project shall be designed so that at least one of the following applies.

1. Multifamily Residential Projects:

a. Fifteen percent (15%) of the total number of the proposed dwelling units are reserved for very-low income household as defined in Health and Safety Code Section 50105; or

b. Twenty percent (20%) of the total number of the proposed dwelling units are reserved for low income households as defined in Health and Safety Code Section 50079.5; or

c. A combination of very-low and low income units may be approved after a review of the information submitted by the developer as specified in Section 9.32.110 provided that not less than 5% are very low income households and that not less then 18% of the total units are Inclusionary; or

d. Fifty percent (50%) of the total number of the proposed dwelling units are reserved for qualifying senior citizens households; or

e. Fifty percent (50%) of the total number of the proposed dwelling units are reserved for qualifying disabled households as defined by Section 12926 of the California Government Code.

2. Single Family Residential Projects

a. Fifteen percent (15%) of the total number of the proposed dwelling units are reserved for low income households as defined in Health and Safety Code Section 50079.5; or

b. Twenty percent (20%) of the total number of the proposed dwelling units are reserved for moderate income households as defined in Health and Safety Code Section 50093, or

c. A combination of low or moderate income households may be approved after a review of the information submitted by the developer as specified in Section 9.32.110 provided that not less than 5% are low income households and that not less then 18% of the total units are Inclusionary; or

d. Community Land Trust Restricted Single Family Projects as specified in Section 9.32.090 shall construct a minimum of ten percent (10%) of the total number of the proposed dwelling units reserved for low income households.

B. Exempt residential development. The following types of development are exempt from this Chapter and have no obligation to provide Inclusionary units:

1. A residential project proposed to contain five (5) or fewer Multifamily Residential dwellings at one location or contain five (5) or fewer Single Family Project residential dwellings at one location provided that the project meets the average density range as required by this code. If a project does not meet the average density range, the required number of Inclusionary units shall be based on the potential future build-out at the average density range. The Director may approve the incentives, concessions, and assistance, and subsidies described in Section 9.32.050 for a housing development which proposes less than the unit thresholds where at least one (1) of the total units are for very low or low income households, and the Director finds that the housing development is designed, or has appropriate conditions to ensure that the proposed units are compatible with the surrounding neighborhood;

2. A residential project outside of the City;

3. The substantial rehabilitation of existing residential dwellings that does not increase the total floor area and/or increase the number of residential units by more than the exception thresholds described in Section 9.32.030.B.1;

4. The creation of twelve (12) or fewer dwelling units through the adaptive reuse or conversion on the upper floors of a non-residential existing structure to a residential use; and

5. The creation of twelve (12) or fewer dwelling units on the upper floors or rear of commercially or industrial zoned properties where uninterrupted commercial or industrial uses are maintained at the street level and any residential uses shall be not more than 25% of the first floor area.

9.32.040 - Standards for Inclusionary Units

A. Location of Inclusionary units. Except as provided in Section 9.32.070, Inclusionary units shall be constructed on the same site as the market rate units in the project. The Affordable Housing Plan shall provide for the dispersal of buildings containing Inclusionary units to the maximum extent feasible, taking into account the funding and financing environments applicable to Inclusionary housing development. The Director may allow for variation from these principles, but only to the extent necessary, if the Director determines that an alternative configuration of Inclusionary units is required by funding or financing considerations associated with the development of the Inclusionary units or by the applicable residential land use designations within and adjacent to the residential project.

B. Timing of construction. The Affordable Housing Plan and Inclusionary Housing Agreement required by Section 9.32.110 shall include a phasing plan that provides for the timely construction of the Inclusionary units as the project is completed. The phasing plan shall provide for development of the Inclusionary units concurrently with the market rate units; provided that the phasing plan may be adjusted by the Director away from strict concurrence where necessary to account for changes in financing and funding environments, economies of scale, and infrastructure needs applicable to development of the market rate and the Inclusionary units.

C. Unit size. The Inclusionary housing component shall accommodate diverse family sizes by including a mix of studio, one, two and three-bedroom units as determined by the Director.

D. Unit types. The household size, bedroom mix, and other exterior amenities shall be in the same ratio for Inclusionary units as for market rate units. Low and moderate income Inclusionary unit types shall be in the same ratio as the overall project.

E. Exterior appearance. Inclusionary units shall be visually comparable with the market rate units. External building materials and finishes shall be the same type and quality for Inclusionary units as for market rate units. Interior materials finishes may vary in compliance with Section 9.32.050.A.6. No reduction in insulation, windows, heating systems, and other improvements relating to energy efficiency of the units are allowed.

F. Development standards. Except as provided in the Affordable Housing Regulatory Agreement in compliance with Subsections 9.32.110.E, Inclusionary units shall comply with all applicable development standards of this Land Use Code.

G. Rounding. The calculation of the Inclusionary units in compliance with this Subsection that results in fractional units higher than 0.75 shall be rounded up to the next whole number. For the purposes of calculating a bonus, the residential units do not have to be based upon individual subdivision maps or parcels. For the calculation of any in-lieu fee authorized under Subsection 9.32.070A.2 no rounding is authorized and the developer shall pay the fractional percentage of the fee.

9.32.050 - Incentives, Concession, Assistance, and Subsidies

The developer of a residential project subject to the requirements of this Chapter may request that the City provide Inclusionary incentives in compliance with this Section. The goal of the Inclusionary incentives is to apply available incentives to qualifying projects in a manner that, to the extent feasible, offsets the cost of providing the Inclusionary units. The Director shall respond to a request for incentives in compliance with Section 9.32.110, and shall make a determination as to a package of Inclusionary incentives for the Inclusionary units after a review of the Affordable Housing Plan. The City shall grant at least one of the following concessions.

If an applicant agrees to construct more than 5% but less than 10% above the required number of affordable housing units as described in Section 9.32.030, the developer is entitled to one additional concession. If an applicant agrees to construct more than 10% above the required number of affordable housing units as described in Section 9.32.030, the developer is entitled to two additional incentives. If a density incentive and/or other incentives cannot be accommodated on a site due to strict compliance with the provisions of this Land Use Code, the Council may modify or waive any other development standards as necessary to accommodate the required Inclusionary Units.

A. Concessions Not Requiring Financial Pro Forma from Applicant. The following concessions and incentives shall be available to the applicant without any requirement that the applicant demonstrate to the City that the requested concession or incentive results in identifiable, financially sufficient, and actual cost reductions to the project:

1. Parking Concessions. The following maximum parking standards, inclusive of handicapped and guest parking, shall apply to the entire project:

   0-1 bedroom dwelling unit: 1 onsite parking space;
   2-3 bedroom dwelling unit: 2 onsite parking spaces; and
   4 or more bedroom dwelling unit: 2.5 parking spaces.

2. Mixed Use. Approval of mixed-use (housing and non-residential) development on a site designated for non-residential development by its zoning or General Plan land use designation provided that the residential dwelling units are on the upper floors or rear of commercially or industrially zoned properties where uninterrupted commercial or industrial uses are maintained at the street level and any residential units shall not be more than 25% of the first floor area.

3. Density Bonus. Approval of the Density Bonus Standard as outlined in Section 9.24.050.

4. Public Works Standard. Approval of an alternative standard relating to road widths, curbs and gutters, sidewalks and on-street parking that is acceptable to the Public Works Director.

5. General density bonus. The City shall grant at least a 20 percent increase in the number of dwelling units normally allowed by the applicable General Plan designation and zoning, except that for each one percent increase above required percentages of affordable units outlined in Section 9.32.030, the density bonus shall be increased by 2.5 percent up to a maximum of 35 percent.

6. Interior finish reductions. The City may, to the maximum extent appropriate in light of project design elements as determined by the Director, allow builders to finish out the interior of Inclusionary units with less expensive finishes and appliances. This may include unfurnished second floors provided that the units have at least two (2) finished bedrooms; one (1) bathroom; one (1) kitchen; and one (1) living area.

7. Streamlining and priority processing. The Director may issue a Zoning Clearance for a residential project that is less than one (1) acre and includes a minimum of twenty-five percent (25%) very- low; thirty percent (30%) low income or forty percent (40%) total Inclusionary units.

8. Bonus and incentives allowed for housing with child care facility. A housing development that complies with the resident requirements, which includes a licensed child care facility that serves 15 or more children, that will be located on the site, as part of, or adjacent to, the development shall be subject to the following additional incentives, and requirements.

   a. An additional density incentive 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

   b. The Child Care Facility may be counted as one Inclusionary Unit; or

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

   d. 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.

   e. 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; and

      (2) The percent of the households served by the childcare facility shall be equal to or greater than the percentage of very-low, low, and moderate income dwelling units that are required for Inclusionary units.

B. Concessions Requiring Financial Pro Forma from Applicant. The following concessions and incentives, when requested by the applicant, shall require the applicant to demonstrate to and receive approval from the City Council that the requested concession or incentive results in identifiable, financially sufficient, and actual cost reductions to the project.

   1. Additional Density Bonus. A reduction of the standards beyond the incentives outlined in Section 9.24.050.

2. Energy Efficiency. A reduction of the energy efficiency and conservation measures as outlined in Policy RC-8b of the General Plan;

3. Site, Building and Design Standards. Reduction in the minimum requirements of any of the following: private space; landscape requirements, including for parking lots; and architectural design requirements that exceed the minimum building standards established by local or state building code standards to make an "Affordable (Single Family Residential Project)" or an "Affordable (Multifamily Residential Project)", or any other proposed concession or incentive not identified in Section 9.24.050.

4. Parking. Reduction in the parking space dimensions, driveway width, parking aisle width, garage and carport dimensions; number of tandem parking spaces; and reduced bicycle parking requirements.

5. Net Area Calculation. Modification of the criteria utilized to calculate the net area used for calculating density.

6. Fee waivers or deferrals. The City shall make available to a residential project developer a program of waiver, reduction or deferral of development fees, administrative and financing fees for Inclusionary units. The program may include application, on behalf of a developer, to the California Housing Finance Agency to obtain school facility fee reimbursements for eligible projects and credit such funds to offset school fees paid by the project.

7. Public Financial Assistance. The developer may apply to the Department for local, local, State, and federal public funding in compliance with Section 9.32.110 to assist in the financing and development of the Inclusionary units. The City may facilitate applying for State allocation of tax credits, mortgage revenue bond funds, or State or Federal assistance to the project ("External Subsidy").

   The Director shall make a recommendation regarding the proposed public funding assistance package to the City Council for inclusion in the City's Inclusionary Housing Agreement for the project. In making the recommendation to the City Council as to the feasible elements of public funding, and the Director, shall utilize the Affordable Housing Plan as required by Section 9.32.110 and other factors necessary to the evaluation. The City shall provide to developers and other interested parties criteria for evaluation of applicants for local public funding.

C. Effect of incentive or concession. The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, zoning change, or other discretionary approval.

9.32.070 - Alternatives to Inclusionary Units

A. Off-site Housing and Land Dedication. The Owner shall submit a request for Alternatives to Inclusionary Units to the Director as early as possible in the regulatory process, as provided in Section 9.32.110.

1. Off Site Housing. In the case of off-site land, demonstrate to the City Council that the off-site location is and will remain committed to the timely development of the Inclusionary units as provided in the Affordable Housing Plan. This commitment may be demonstrated through ownership of the off-site location, or through adequate control of the use of the off-site location through joint ownership, joint venture or other contractual means. If necessary to ensure that Inclusionary units are developed concurrently with the market rate units, the City Council shall require the offer of dedication or evidence of off-site control as early as the first legislative entitlement. With respect to an off-site location, the City Council shall also condition development or occupancy of the residential project on development or occupancy of the off-site Inclusionary units, and the Inclusionary Housing Agreement must apply to and be recorded against both the residential project and the off-site land. With respect to dedicated land, the City, upon acceptance of the offer of dedication, shall publish a request for proposal for development of the site that will result in the production of the number of Inclusionary units credited to the site.

2. Land Dedication. In the case of land dedication, provide an irrevocable offer of dedication for the dedicated site at no cost to the City plus twenty percent (20%) of the estimated construction cost. The estimated construction cost shall be based on the 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. Said fee shall be placed in the Housing Trust Fund as determined by the City. If it is determined to be infeasible, and appropriate Findings can be made, to locate land available for dedication at the time of the Council approves the Affordable Housing Agreement, the City Council may consider an exception to the Off-Site Housing and Land Dedication and allow the payment of In-lieu fees. In the case of the exception, the owner shall pay a fee to the City. The fee shall equal to the appraised value of the acreage required for land dedication plus thirty percent (30%) of the estimated construction cost. The estimated construction cost shall be based on the 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. Said fee shall be placed in the Housing Trust Fund.

B. Number of Inclusionary units credited to the dedication or off-site location. The number of Inclusionary units credited to the dedication or off-site location will consist of the number of Inclusionary units which can with reasonable degree of certainty be developed on the land, given:

1. The mix of Inclusionary unit sizes and type of structure in the Affordable Housing Plan;

2. Densities permitted by applicable planning and zoning designations; and

3. Site, infrastructure, environmental and other physical and planning constraints plus the Inclusionary units which can with reasonable degree of certainty be developed on the off-site land.

C. Site suitability. The land proposed for dedication or for off-site location must be suitable as to size, configuration, physical characteristics, physical and environmental constraints, access, location, adjacent use, and other relevant planning criteria, as determined by the Director.

D. Site identification and regulatory status. The developer shall identify the proposed dedicated site or off-site location and the number of proposed units to be credited thereby as part of the Affordable Housing Plan required by Section 9.32.110. At the same time or before the development project receives its legislative entitlements, the dedicated or off-site land shall have received all the legislative entitlements necessary for development of the Inclusionary units on the site. Unless the phasing plan requires otherwise, at the same time or before a residential project receives its first project-specific entitlements, the dedicated or off-site land shall have received all the necessary project-level approvals necessary for development of the Inclusionary units on such land, and prior to the issuance of a Certificate of Occupancy for a residential project, the dedicated land or off-site land shall be fully served with the infrastructure necessary for residential development.

E. Off-site location acceptance. The review authority as outlined in the Affordable Housing Agreement may approve, conditionally approve or reject the proposed land dedication or off-site development proposal. If the land dedication or the off-site proposal is accepted or accepted as modified, the relevant elements of the Affordable Housing Plan shall be included in the applicable legislative approvals for both the residential development generating the requirement for the Inclusionary units, and if applicable, the dedicated site or off-site development project where all or part of the requirement is proposed to be met. If the dedication or off-site proposal is rejected, the Inclusionary units shall be provided in compliance with Section 9.32.030, within the project.

9.32.080 - Term of Affordability for Rental Inclusionary Units - Rent Costs

A. Term. Each rental Inclusionary unit shall remain affordable for a period of no less than 55 years from the recordation of the Inclusionary Housing Agreement.

B. Rent cost requirements. The annual rents charged for the Inclusionary housing units in the development shall not exceed the following amounts during the period of continued availability required by this Section:

1. Very low income households. Rent costs shall be 30 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 50053. Very low income households are those earning 50 percent or less of area median income, as defined in Health and Safety Code Section 50105.

2. Low income households. Rent costs shall be 30 percent of 60 percent of the area median income, for units targeted for low income households, as defined in Health and Safety Code Section 50053. Low income households are those earning 80 percent or less of area median income, as defined in Health and Safety Code Section 50079.5.

3. Moderate income households. Rent costs shall be 30 percent of 110 percent of the area median income, for units targeted for moderate income households, as defined in Health and Safety Code Section 50053. Moderate income households are those earning 120 percent or less of area median income, as defined in Health and Safety Code Section 50093.

4. Other Income limits. Other Income limits that may be required by the City's Multifamily Housing Guidelines or other local, State, or federal agencies that are providing financial assistance to the project.

In each case the median income applicable to Humboldt County is as determined annually by the United States Department of Housing and Urban Development, adjusted for household size, less a reasonable allowance for utilities as may be published by the Eureka Housing Authority or the City of Arcata.

9.32.090 - Term of Affordability and Resale of For-Sale Units

A. Term. Each single family Inclusionary unit shall remain affordable for a period of no less than 45 years for Single-Family Restricted projects and 99 years for Community Land Trust Restricted projects from the recordation of the Inclusionary Housing Agreement.

B. Sale to an income eligible household. The purchase price charged for the Inclusionary housing units in the development shall be financed so that the monthly payments on the 30 year fixed interest rate private mortgage, City second mortgage, property taxes, and property insurance do not exceed the following amounts during the initial sale of the Inclusionary housing:

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 50052.5;

2. Low income households. Thirty percent of 70 percent of the area median income, for units targeted for low income households, as defined in Health and Safety Code Section 50052.5.

3. Moderate income households. Thirty-five percent of 110 percent of the area median income, for units targeted for moderate income households, as defined in Health and Safety Code Section 50052.5.

4. Other Income limits. Other Income limits that may be required by the City's Single-Family Housing Guidelines or other local, State, or federal agencies that are providing financial assistance to the project and are included in the Inclusionary Housing Agreement.

In calculating the incomes and/or affordability of Inclusionary units, the following relationship between unit size and household size shall apply:

Efficiency units:	1 person household
One-bedroom units:	1 person household
Two-bedroom units:	2 person household
Three-bedroom units:	3 person household
Four-bedroom units:	5 person household

C. Initial Sale of Inclusionary Units. To ensure affordability, the Affordable Housing Plan and Agreement shall specify either single-family or Community Land Trust requirements, at Developer and/or Owner's option.

1. Single-Family Restricted Projects. Single-family restricted projects shall ensure that the City recoups all of the local financial assistance to the home buyer, if the household does not continue to be the principal residence of the family for the duration of the affordability period. At the time of the initial sale and any subsequent sale to an income-eligible purchaser, the qualified buyer of the designated Inclusionary unit shall enter into Loan Documents with the City. At a minimum, the Loan Documents shall include a Promissory Note Secured by Deed of Trust at zero percent (0%) interest for the term of affordability required under Subsection 9.32.090.A securing the difference between the property's market value, as determined by an appraisal, and the actual price paid by the income eligible purchaser.

   The Promissory Note Secured by Deed of Trust shall also include a clause securing the City's share of equity in the property. The City shall also encumber any other monetary Inclusionary Incentives provided to the owner through the Affordable Housing Agreement.

   The Loan Documents shall require that for the period of affordability, the City will have first right of refusal to purchase or transfer the right of refusal to an income qualified household or a non-profit affordable housing agency at an appraised value. If the home is re-sold the full unpaid principal, accrued interest, and share of equity amounts will be due on sale. The proceeds from the sale shall go into a segregated Affordable Housing Trust Fund. The City shall apply all proceeds from the sale to subsidize the Inclusionary unit or other for-sale Inclusionary housing units.

2. Community Land Trust Restricted Projects. Community Land Trust restricted projects shall ensure that, if the housing does not continue to be the principal residence of the qualifying household for the duration of the period of affordability, that the housing unit is made available for subsequent purchaser only to a buyer whose household meets the income qualifications for that Inclusionary housing unit. The resale requirement must also ensure that the price at resale provides the original owner a fair return on their investment.

9.32.100 - Income, Occupancy, Hazard Insurance, and Maintenance Requirement

A. Rental units. An income qualified household who occupies a rental Inclusionary unit shall occupy that unit as his or her principal residence and shall submit all documents necessary for the City or its agent to re-certify the income annually. The City shall require that the homeowner maintain the Inclusionary unit in good repair and to allow for an annual inspection of the external and internal condition of the Inclusionary units by the City or its agent.

B. For-sale units. An initial income qualified owner who purchases a for-sale Inclusionary unit shall occupy that unit as his or her principal residence, and shall annually certify to the City that he or she is occupying the unit as their primary residence and that they maintain hazard insurance. After the initial income verification the Initial owner is no longer required to remain income eligible. The City shall require that the homeowner maintain the Inclusionary unit in good repair and to allow for an annual inspection of the external condition of the housing by the City or its agent.

9.32.110 - Administration of Inclusionary Units

A. Affordable Housing Plan. The application for the first legislative entitlement for a residential project shall include a draft Affordable Housing Plan which shall contain, at a level of detail appropriate to the legislative entitlement, at least the following information:

1. The name and address of the property owner, developer, and authorized agent;

2. The name and address of the entity that will develop the Inclusionary units, if not the developer

   a. In the case of land dedication, an executed irrevocable offer of dedication under the terms described in Section 9.32.070.

   b. In the case of off-site location, the evidence of site control required in Section 9.32.070 and other information necessary to establish site location, suitability, development constraints, and the number of Inclusionary units assigned.

3. Project Description. Narrative project description; site plans, floor plans, elevation schematics, and details of phasing of the residential project as a whole including the Inclusionary units;

4. Project Financing. Financial pro-forma and construction and permanent financing sources and uses for the Inclusionary units with sufficient economic information to allow for evaluation of feasibility, financing and rates of return;

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

6. 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 initial and long term affordable rent or affordable sales price and housing cost consistent with HUD Guidelines;

7. Marketing plan. The marketing plan and applicant selection procedures for the affordable dwelling units;

8. Description and location of affordable units. The location (fixed and/or floating), unit sizes (in square feet), and number of bedrooms of the affordable dwelling units and market rate units;

9. Term and type of the use restrictions. Term of the affordability restrictions for the affordable dwelling units in compliance with Sections 9.32.080 and 9.32.090;

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

11. Description of concessions and/or incentives. A description and Land Use Code citation of the additional concessions and/or incentives being requested by the applicant; and

12. Other provisions. Other information required by the Director or local, State, or federal funding agencies to ensure successful implementation and compliance with this Chapter.

B. Action on Affordable Housing Plan. The Director shall review each proposed Affordable Housing Plan and make recommendations to the City Council. No legislative entitlement shall be granted without an adequate Affordable Housing Plan. The elements of the Affordable Housing Plan shall be incorporated into the terms and conditions of the applicable legislative entitlements and project-specific approvals.

C. Affordable Housing Regulatory Agreement. No development agreement or project-specific approval may be issued by the City without an executed Affordable Housing Regulatory Agreement executed by the owner, the developer (if not owner), and the City. Recordation of the agreement shall be a condition of approval of any development agreement, disposition and development agreement or project-level approval.

1. Timing. An Affordable Housing Regulatory Agreement shall be negotiated concurrently with the processing of an application for the earlier of a development agreement or the first project-specific approval. The City shall act with the advice of the Director. At the request of the developer, and if the developer makes available Affordable Housing Plan, the Affordable Housing Regulatory Agreement may be negotiated earlier in connection with the issuance of a legislative entitlement.

2. Contents. The agreement shall be consistent with the Affordable Housing Plan, and shall indicate ownership or rental project, the number and size of very low, low, and moderate income units, the developer of the Inclusionary units, the phasing and construction scheduling of the units, commitments for Inclusionary incentives, including City commitments for local public subsidy, and any other information required by the City relative to the Inclusionary units. In the case of land dedication or off-site Inclusionary housing, the agreement shall also contain the information required in Section 9.32.070.

3. 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 as per the method included in Section 9.32.090.C.

4. 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;

5. 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;

6. 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;

7. 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;

8. 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

9. 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.

10. 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

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

D. 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, low, or moderate income households, or by qualified residents in the case of senior or disabled 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 each parcel containing an affordable dwelling unit.

E. 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 9.32.080 (Term of Affordability for Rental Inclusionary Units), above.

9.32.120 - Administrative Fees

The Council may by resolution establish reasonable fees and deposits for the administration of this Chapter.

9.32.130 - Takings Determination

Within a maximum of 15 days of the execution of an Inclusionary Housing Agreement, a Developer may request a determination that the requirements of this Chapter, taken together with the Inclusionary Incentives, as applied to the residential project through the Affordable Housing Regulatory Agreement, would legally constitute a taking of the property of the residential project without just compensation under the California or Federal Constitutions.

A. If the developer and the City have been unable to reach agreement on the terms of an Inclusionary Housing Agreement, the applicable draft for purposes of the takings determination shall be the final draft proposed by the City which the developer may execute under protest without recordation.

B. The developer has the burden of providing economic information and other evidence necessary to establish that application of the provisions of the Affordable Housing Regulatory Agreement to the residential project would constitute a taking of the property of the proposed residential project without just compensation. The Director shall perform an independent evaluation, and make a recommendation to the City Manager. The City Manager shall make the determination, which may be appealed in the same manner as Director decisions as provided in Chapter 9.76 (Appeals), provided that the decision of the City Manager shall be subject to appeal to the Council. In making the taking recommendation or determination, the decision maker shall assume each of the following:

1. Incorporation of the Inclusionary units in the residential project;

2. Application of Inclusionary incentives;

3. Incorporation into the residential project of the most cost- efficient product type for the Inclusionary units; and

4. External funding where reasonably likely to occur.

If it is determined that the application of the provisions of this Chapter through the Inclusionary Housing Agreement would be a taking, the Affordable Housing Plan and the Inclusionary Housing Agreement shall be modified to reduce the obligations for Inclusionary units to the extent, and only to the extent necessary to avoid a taking. If it is determined no taking would occur though application of the Inclusionary Housing Agreement to the residential project, the requirements of this Chapter remain applicable, and no project-level approval shall be issued unless the developer has executed and recorded the Inclusionary Housing Agreement as proposed by the City.

9.32.140 - Enforcement and Penalties

A. No legislative entitlement and no master parcel map shall be issued or valid without an Affordable Housing Plan as required by this Chapter.

B. No project-specific approval nor development agreement shall be issued for any residential project unless an Inclusionary housing agreement has been approved and executed, and no building permit or certificate of occupancy shall be issued until the Inclusionary Housing Agreement has been recorded as required by this Chapter.

C. The City may bring civil and criminal enforcement actions as are provided by the Municipal Code.

CHAPTER 9.34 -LANDSCAPING STANDARDS

Sections:

9.34.010 - Purpose
9.34.020 - Applicability
9.34.030 - Definitions
9.34.040 - Landscape and Irrigation Plans
9.34.050 - Landscape Location Requirements
9.34.060 - Landscape Standards
9.34.070 - Maintenance of Landscape Areas

9.34.010 - 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.

9.34.020 - Applicability

The provisions of this Chapter apply to all land uses as follows:

A. New projects. New residential subdivisions, multi-family residential projects, and nonresidential projects within all zone districts except for the AE, AR, and NR zone districts shall incorporate a minimum of ten (10) percent landscaping per site area. This requirement may be modified by the Director for the CC zone district if site restrictions limit landscaping opportunities. Landscaping requirements for parking areas, per Section 9.34.050 A, shall count toward the ten (10) percent site area landscaping requirement.

B. Existing development. The approval of a Minor Use Permit, Use Permit, Planned Development Permit, Grading Permit, Variance, Coastal Permit, or application for Design Review for physical alterations and/or a change in use within an existing development may include conditions of approval requiring the upgrading of nonconforming landscaping to comply 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 9.79.060 (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.

E. Responsibility of property owner. The provision of required landscaping and maintenance shall be the responsibility of the property owner.

9.34.030 - Definitions

Definitions of certain technical terms and phrases used in this Chapter are under "Landscaping Standards" in Article 10 (Glossary) of this Land Use Code.

9.34.040 - Landscape and Irrigation Plans

A. Landscape Plan. A Landscape Plan shall be submitted as part of each application for new development, or the significant expansion (e.g., 50 percent or more of floor area) or redevelopment of an existing use, as determined by the Director. The Landscape Plan shall be submitted with the application for a Building Permit. The Landscape Plan shall be approved by the Historic and Design Review Commission before the issuance of a Building Permit.

B. Content and preparation.

1. Required information. Landscape Plans shall contain the following information:

a. Landscape Plan. Detailed drawings and specifications clearly identifying the botanical and common name, size, and quantity of all plant materials. In addition, the Landscape Plan shall show the precise location and mature size of all plant material and other landscape elements, including method of irrigation.

b. Maintenance Plan. Explanation of how the applicant will ensure that the maintenance of approved landscaping will comply with Section 9.34.070 (Maintenance of Landscape Areas) on a continuing basis.

C. Financial security for installation of Landscaping. The Director may require financial security for legitimate delays in the installation of approved landscaping prior to the issuance of a Certificate of Occupancy. The financial security shall be based on a rate of $1.30 per square foot of landscaped area, with inflation adjustments every five years. All approved landscaping shall be in place within six months from the date of issuance of the Temporary Certificate of Occupancy.

D. Changes to approved landscape plans. The Director may authorize minor changes to an approved landscape plan in compliance with Section 9.79.080 (Change to an Approved Project).

9.34.050 - 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. Parking areas. Parking areas, other than single-family residential and secondary units, containing three or more parking spaces 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. Landscape areas shall be provided protective curbing in compliance with Section 9.34.060.A.4 (Protective curbing).

3. Groundwater recharge. The design of parking lot landscape areas shall consider and may be required to include provisions for the on-site detention of stormwater runoff, pollutant cleansing, and groundwater recharge.

4. Perimeter parking lot landscaping. All surface parking areas shall be screened from streets and adjoining properties, and open areas between the parking area and the public street shall be landscaped.

   a. Adjacent to streets.

      (1) A parking area proposed or existing adjacent to a public street shall be designed with a landscaped planting strip between the street right-of-way and parking area with a minimum depth of six feet.

      (2) Landscaping within the planting strip 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.

      (3) Screening materials may include a combination of plant materials, earth berms, solid decorative masonry walls, raised planters, or other screening devices that are determined by the review authority to meet the intent of this requirement.

      (4) Trees that reach a mature height of at least 20 feet shall be provided within the planting strip in addition to trees within the parking lot interior required by Subsection A.5.

      (5) Plant materials, signs, or structures within a traffic safety sight area of a driveway shall comply with Section 9.30.040.E (Height limit at street corners).

   b. Adjacent to side or rear property lines. Parking areas for nonresidential uses shall provide a screen or perimeter landscape strip where the parking area adjoins a side or rear property line unless the sites share a joint access drive. The requirement for a landscape strip may be satisfied by a setback or buffer area that is otherwise required.

   c. Adjacent to structures. When a parking area is located adjacent to a nonresidential structure, a 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 access ways.

   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 six-foot width between the parking area and the common property line bordering the residential use. A solid wall or 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.

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. Trees that reach a mature height of at least 20 feet shall be planted within the parking lot at a minimum ratio of one tree for each five parking spaces.

b. Location of landscaping. Landscaping shall be dispersed throughout the parking area, as follows.

(1) Parking lots with more than 50 spaces shall provide a concentration of landscape elements at primary entrances, such as trees, shrubs, flowering plants, enhanced paving, and project identification.

(2) 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.

B. Major Subdivisions. A new major subdivision shall be designed and constructed to provide street trees at a rate of at least one tree for each 30 feet of street frontage and installed so there is not more than 60 feet between each tree. Irrigation shall be provided for the trees.

9.34.060 - Landscape Standards

A. Landscape design. The required landscape plan shall be designed to integrate all elements of the project to achieve desired aesthetic objectives, accommodate microclimates, and minimize water and energy demand.

1. Plant selection and grouping. Plant materials shall be selected for adaptability to the site, non-invasiveness, color, form, and pattern; adhere to xeriscaping concepts; ability to provide shade; and soil retention capability.

a. The use, protection, and preservation of existing site vegetation, 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).

b. 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 providing fire-resistant landscaping buffers between development areas and naturally vegetated areas, as identified by the Director.

2. Minimum dimensions. Wherever this Land Use 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 36 inches within five feet of a street right-of-way or within the vision clearance triangle, except for trees with the lowest portion of their canopy maintained at a minimum height of 10 feet above grade; or

   b. Interfere with the proper operation of existing solar energy equipment or passive solar design on subject or adjacent parcels.

4. Protective curbing. Areas containing plant materials shall be bordered by a concrete curb at least six inches high and six inches wide, except:

   a. Where the review authority approves alternative barrier design determined to be equally effective in protecting landscaped areas from damage by vehicles or pedestrians; or

   b. Where site drainage is to be directed into the landscaped area for pollutant filtering, and plant materials are protected by other means approved by the Director.

5. Safety requirements.

   a. Landscape materials shall be located so that at maturity they do not:

      (1) Interfere with safe sight distances for vehicular, bicycle, or pedestrian traffic;

      (2) Conflict with overhead utility lines, overhead lights, or walkway lights; or

      (3) Block pedestrian or bicycle ways.

   b. Landscape design should incorporate security lighting, where determined by the review authority to be appropriate.

6. Water features. Decorative water features (e.g., fountains, ponds, waterfalls) shall have recirculating water systems, encourage solar power where feasible.

7. Impervious surfaces. Landscape design should minimize the area of impervious surfaces, to reduce runoff.

8. Weed prevention. The use of weed barrier fabric is highly discouraged and non-porous material is prohibited.

B. Plant material. Required landscape shall include trees, shrubs, and ground covers. Native species and the avoidance of invasive plant materials are encouraged. Artificial plant material is prohibited.

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 shrubs, and one gallon for perennials and vines or less for mass planting, unless otherwise approved by the review authority on the basis that the alternate size will achieve the desired immediate and/or long-term 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 planted with root barriers or root barrier panels to prevent damage to adjacent structures or pavement.

3. Groundcover and shrubs. The majority of areas required to be landscaped shall be covered with groundcover, shrubs, turf, or other types of plants.

   a. Groundcover shall be provided throughout the landscaped area and shall be spaced to achieve full coverage within one year.

   b. Excessive use of turf is discouraged.

   c. Crushed rock, redwood chips, pebbles, stone, and similar materials shall be allowed up to 15 percent of the total required landscape area.

   d. Landscaped areas (e.g., shrub beds) shall be top dressed with a bark chip mulch or approved alternative to avoid exposed bare soil.

C. Irrigation system requirements. All landscaped areas for commercial, industrial, and multi-family projects shall include an automatic irrigation system.

D. Certification of landscape completion. The applicant shall submit written verification to the Director that the required landscaping and irrigation improvements were completed as approved. Deviations from the approved landscape requirements require the submittal of "as-built plans" for review and approval by the Director.

9.34.070 - Maintenance of Landscape Areas

A. Maintenance required. A written Landscape Maintenance Plan (except for existing single-family dwellings) shall ensure all site landscaping is maintained in a healthy and thriving condition at all times. At a minimum, the Landscape Maintenance Plan shall address pruning, trimming, weed control, cleaning, fertilizing, and irrigation. In addition, the Landscaping Maintenance Plan shall include provisions to replace plant material as needed to ensure continued compliance with approved landscape requirements.

B. 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.

C. 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 9.36 -PARKING AND LOADING

Sections:

9.36.010 - Purpose
9.36.020 - Applicability
9.36.030 - General Parking Regulations
9.36.040 - Number of Parking Spaces Required
9.36.050 - Disabled/Handicapped Parking Requirements
9.36.060 - Bicycle Parking
9.36.070 - Motorcycle Parking
9.36.080 - Adjustment of Parking Requirements
9.36.090 - Parking Design and Development Standards
9.36.100 - Driveways and Site Access
9.36.110 - Loading Space Requirements

9.36.010 - Purpose

The requirements of this Chapter are intended to minimize impervious areas, to ensure that accessible, suitable, and well maintained 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.

9.36.020 - Applicability

A. Parking and loading facilities in compliance with this Chapter. Each new land use and structure shall provide suitable off-street parking and loading facilities in compliance with this Chapter.

B. An increase in required parking and/or loading spaces. When any non-residential structure is enlarged or increased in capacity, or when a change in use creates an increase in the amount of off-street parking and/or loading spaces required, additional parking and/or loading spaces shall be provided in compliance with this Chapter.

C. Responsibility of the property owner. The provision of required parking and loading spaces shall be the responsibility of the property owner.

D. Approval of Director required. A new land use shall not be commenced and a structure shall not be occupied until the improvements required by this Chapter are completed and approved by the Director.

9.36.030 - 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. Areas not reviewed and approved for use as parking or loading shall not be used for such 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. Vehicles, trailers, or other personal property shall not be parked on private property for the purpose of displaying the vehicles, trailers, or other personal property for hire, rental, or sale, unless the property is appropriately zoned, approved by the City for that 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 30 days. This shall not be construed to allow the continued sale of vehicles.

D. Recreational vehicle parking.

1. The storage (parking for any period longer than 72 hours) of a recreational vehicle 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 Subsection 9.30.090.D (Limitations on the Use of Setbacks).

E. Financial security for installation of parking and loading areas. The Director may require financial security for legitimate delays in the installation of approved parking or loading areas prior to the issuance of a Certificate of Occupancy. The financial security shall be based on a rate of $4.00 per square foot of parking or loading area with inflation adjustment every five years. All approved parking or loading shall be in place within six months from the date of issuance of the Temporary Certificate of Occupancy. In no case shall the Disabled/Handicap Parking Requirements of Section 9.36.050 be delayed beyond the issuance of the Certificate of Occupancy.

F. Parking lot construction, reconstruction, resurfacing, or repainting.

1. The construction, reconstruction, resurfacing, or repainting of any parking lot that results in a revised layout shall first require:

a. A permit from the Building Department; and

b. Design Review approval, except for parking for a single-family or second dwelling unit on an individual parcel.

2. The purpose of this permit requirement is to ensure that the standards of this Chapter and requirements for appropriate access are met.

3. Compliance with Subsection 9.34.050.A (Landscape Location Requirements - Parking areas) shall be required.

9.36.040 - Number of Parking Spaces Required

Each land use shall be provided the number of off-street parking spaces required by this Section. See Sections 9.36.060, and 9.36.070 for off-street parking requirements for bicycles and motorcycles, respectively.

A. Parking requirements by land use.

1. Each land use shall provide no less and no more than the number of off-street parking spaces required by Table 3-6, except where an alternate number of spaces is required by the review authority through Minor Use Permit or Use Permit approval in compliance with Section 9.72.080. The number of spaces required and allowed by Table 3-6 may also be modified through Minor Use Permit approval at the request of the applicant.

2. A land use not specifically listed in Table 3-6 shall provide parking as required by the Director. The Director shall use the requirements in Table 3-6 as a guide in determining the appropriate number of off-street parking spaces required for the use.

3. A mixed-use project shall provide parking for each component.

Table 3-6 - Parking Requirements by Land Use

Land UseType	Minimum Number of Parking Spaces Required per Square Foot of Gross Interior Floor Area	Maximum Number of Parking Spaces Allowed per Square Foot of Gross Interior Floor Area
Agricultural and open space uses	1 per 800 sf	1 per 400 sf
Recreation, education, and public assembly uses	1 per 500 sf	1 per 350 sf
Residential uses - Single family and duplexes.	1 independently accessible space per dwelling unit	2 independently accessible spaces per dwelling unit
Residential uses - Multi-family (3 or more units)	1 space per dwelling unit	2 spaces per dwelling unit
Senior Housing	.75 space per dwelling unit	1.5 spaces per dwelling unit
Retail uses	1 per 500 sf	1 per 300 sf
Office Uses	1 per 500 sf	1 per 300 sf
Service uses (including residential care and medical services)	1 per 500 sf	1 per 300 sf
Auto Service and Repair	1 per 500 sf	1 per 300 sf
Hotels, Motels, and Inns	1 space per unit	1.5 spaces per unit
Animal Hospitals and Kennels	1 per 600 sf	1 per 400 sf
Transportation, communications, and infrastructure	1 per 500 sf	1 per 350 sf
Industrial, manufacturing and processing, wholesale	1 per 800 sf	1 per 500 sf
Mini-storage Warehouses	1 per 1,000 sf	1 per 800 sf
Heavy Equipment Sales and Repair	1 per 1,000 sf	1 per 800 sf

B. Multi-tenant sites. Where joint parking facilities are provided for two or more nonresidential uses in a single development, or two or more adjoining developments, the minimum requirement may be reduced to 75 percent of the sum of the requirements for the various uses computed separately, when the combined requirements total four or more spaces. The spaces shall be available to all users of all of the developments benefiting from this provision.

C. Excessive parking.

1. The City discourages a land use being provided more off-street parking spaces than required by this Chapter, 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 3-6 is allowed only with Minor Use Permit approval in compliance with Section 9.72.080, and only when additional landscaping and pedestrian amenities plus stormwater runoff detention/retention and BMP's are also provided to the satisfaction of the review authority.

D. Rounding in calculations. If a fractional number is obtained in calculations performed in compliance with this Section, 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.

E. No reduction in capacity. Off-street parking or loading facilities shall not be reduced in capacity or in area without sufficient additional capacity or additional area being provided to comply with the regulations of this Chapter.

F. Nonconforming parking. A structure with nonconforming off-street parking and/or loading may be physically changed or undergo a change in use in compliance with the following provisions.

1. Residential uses. Additional parking spaces shall not be required; provided, the change does not increase the number of dwelling units, nor eliminate required existing parking or access.

2. Nonresidential uses.

a. The number of existing parking and loading spaces shall be maintained on the site and additional parking and/or loading spaces 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 and/or loading spaces than the previous use, only the difference between the number of spaces required for the previous use and those required for the new use shall be added, even if the previous use was nonconforming as to the number of off-street spaces provided

(1) For purposes of this Subsection, the term "previous use" shall mean the last known permitted use of the same location.

(2) In areas within the Downtown identified by the General Plan that are also within the CC (Commercial - Central) and CG (Commercial - General) zoning districts, no additional off-street parking or loading spaces shall be required for a change in use of an existing structure.

c. When the floor area of an existing structure is increased, the number of parking and loading spaces shall be increased by the difference between the requirements for the new size and the requirements for the previous size in compliance with this Chapter, even if the previous parking and loading were nonconforming as to the number of off-street spaces provided before the increase.

d. Any increase in floor area shall not eliminate required existing parking, loading, or access.

9.36.050 - Disabled/Handicapped Parking Requirements

Parking spaces for the disabled shall be provided in compliance with the California Building Code (CBC), the Federal Accessibility Guidelines, and/or California Code of Regulations Title 24, as applicable. These spaces shall count toward fulfilling the off-street parking requirements of this Chapter.

9.36.060 - Bicycle Parking

Each multi-family project and nonresidential land use shall provide bicycle parking in compliance with this Section.

A. Number of bicycle spaces required. Sufficient bicycle parking and storage space shall be provided on sites except those with only one or two residential dwelling units in compliance with Table 3-7 and this Section.

Table 3-7 - Minimum Number of Bicycle Parking Spaces Required

Vehicle Parking Spaces Required	Number of Bicycle Spaces Required
3 - 10	100% of vehicle parking spaces
11 +	50% of vehicle parking spaces

(For illustrative purposes only, a triplex, which is required to provide six off-street vehicle parking spaces, would need to provide a minimum of six bicycle parking spaces. A multi-family development project requiring 20 off-street parking spaces would be required to provide a minimum of 10 bicycle parking spaces.)

B. Bicycle parking design and devices. Each bicycle parking or storage space shall be no less than six feet long by two feet wide, plus additional space as may be needed for access, and shall have a rack or rain-sheltered structure capable of supporting and securing bicycles of various types and sizes in an upright position. Each space shall be conveniently located for intended uses.

9.36.070 - Motorcycle Parking

A parking lot with 20 or more vehicle parking spaces shall provide motorcycle parking spaces conveniently located near the main entrance of a structure and accessed by the same aisles that provide access to the vehicle parking spaces in the lot.

A. Number of spaces required. A minimum of one motorcycle parking space shall be provided for each 20 vehicle spaces or fraction thereof.

B. Space dimensions. Motorcycle spaces shall have minimum dimensions of four feet by seven feet.

9.36.080 - Adjustment 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 in compliance with Section 9.72.080.

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. Adjustment of parking. A Minor Use Permit shall be required to alter the number of parking spaces required by Section 9.36.040 (Number of Parking Spaces Required), above based on quantitative information provided by the applicant that documents the need for fewer or more spaces (e.g., sales receipts, alternative transportation developments that are either within 250 feet of a bus stop or within 1,000 feet of a transit center, documentation of customers, available public parking, other peak parking demand, etc.).

C. Alternative parking arrangements for the Downtown.

1. Other alternatives to the parking requirements of this Chapter, within the CG (Commercial – General) Downtown area identified by the General Plan and within the CC (Commercial – Central) zoning districts, may be approved by the Director in compliance with the following:

   a. Pay a parking in lieu fee in compliance with Subsection D. (Parking in lieu fee within the Downtown and :HL Combining Zone), below; or

   b. Provide the required parking facilities on another approved site in compliance with Subsection E. (Off-site parking allowed), below; or

   c. Provide some other fair share contribution where authorized by the Council.

2. The agreement embodying one or a combination of these alternatives, except for Subsection C.1.c, determined to be acceptable to the City Attorney, shall be recorded before the issuance of a Building Permit for the project, or the issuance of a Certificate of Occupancy for a new use in an existing structure.

D. Parking in lieu fee within the Downtown and :HL Combining Zone.

1. CC (Commercial - Central), CG (Commercial - General) in the Downtown area, and :HL Combining Zone. Within the CG Downtown area identified by the General Plan and CC zoning districts and the :HL combining zone, in lieu of providing parking facilities required by this Chapter, the requirements may be satisfied by the payment to the City for each parking space required by this Chapter but not provided by the proposed development project in compliance with the following:

   a. The amount shall be set by the Council, shall properly reflect the estimated cost of the construction of replacement parking, including the acquisition of needed land, and shall be identified in the City's Fee Schedule.

b. The Council may elect to decline the acceptance of the payment in lieu of providing the required parking facilities on a case-by-case basis, only if the Council first determines that it is feasible and desirable that the required parking be developed on the subject site.

c. The payment shall be deposited with the City in a special fund and shall be used for the purpose of acquiring and developing on-street and off-street parking facilities, or developing and operating transportation alternatives (e.g. bicycle facilities, mass transit, or pedestrian facilities). The annual Capital Improvements Program (CIP) shall identify the location and construction timing of the targeted improvements.

d. The in lieu fee shall be paid before the issuance of a Building Permit or the issuance of a Certificate of Occupancy for a new use in an existing building.

e. The Council shall solicit the recommendation of the Historic and Design Review Commission regarding aesthetics and function of the parking facilities.

2. Fees not transferable. All parking in lieu fees paid shall be credited to the parcel upon which the use or structure is located, and shall not be transferable to another parcel.

E. Off-site parking allowed. Where approved by the Director, parking required for a use proposed within the CC (Commercial -Central) and CG (Commercial - General) zoning districts may be located in a common or shared parking facility away from the site of the proposed use in compliance with the following.

1. Evaluation of proposal. In considering a request for shared off-site parking, the Director shall consider how the distance between the parking area and the proposed use may affect whether the off-site facility will properly satisfy the parking needs of the proposed use.

2. Guarantee of continued availability.

a. Required parking spaces that are approved off-site shall be committed by a recordable covenant, lease, or other agreement, acceptable to the City Attorney.

b. The parties to the covenant, lease, or agreement shall include the owners, and if applicable, the lessees of the off-site parking spaces and the owners, and if applicable, the lessees of the subject site, with covenants reflecting the conditions of approval and the approved off-site parking plan.

3. Loss of off-site spaces.

a. Notification to the City. The owner/operator of a business that uses approved off-site spaces to satisfy its parking requirements shall immediately notify the Director of a change of ownership or use of the property for which the spaces are required, and of termination or default of the agreement between the parties.

b. Effect of termination of agreement. Upon notification that a lease for required off-site parking has terminated, the Director shall determine a reasonable time in which one of the following shall occur:

(1) Substitute parking is provided that is acceptable to the Director; or

(2) The size or capacity of the use is reduced in proportion to the parking spaces lost.

F. Use of compact car parking spaces.

1. Up to a maximum of 33 percent of the required parking for multi-family residential, commercial, industrial, and institutional uses, providing a minimum of three off-street parking spaces, may be provided as compact parking spaces.

2. Compact car parking spaces shall comply with Table 3-8.

3. All compact car parking spaces shall be marked and/or posted with signs stating "Compact Cars Only."

4. The marking shall be continuously maintained in a clear and visible manner in compliance with the approved plans.

9.36.090 - Parking Design and Development Standards

Required parking areas shall be designed, constructed, and maintained in compliance with the following.

A. 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 or demonstrate to the Director that backing movements are safe.

a. Parking lots shall be designed to prevent access at any point other than at designated access drives.

b. Single-family dwellings and duplex units are exempt from this requirement.

2. A nonresidential development that provides 20 or more parking spaces should have:

   a. 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, or back of sidewalk, to provide a queuing or stacking area for vehicles entering and exiting the parking area. See Figure 3-6.

   b. Pedestrian pathways through the parking lot outside of the drive aisles to allow safe pedestrian access to the structures.

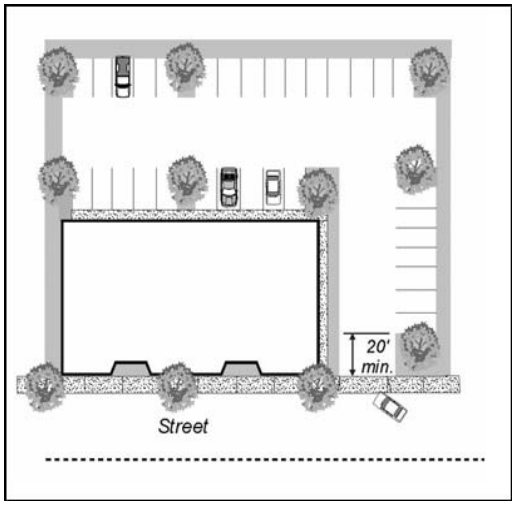

Figure 3-6 - Queuing Area

3. A minimum unobstructed clearance height of 10 feet shall be maintained above areas accessible to vehicles within nonresidential developments.

B. Access to adjacent sites.

1. Nonresidential developments.

   a. Applicants for nonresidential developments are required, if feasible, to provide on-site vehicle and pedestrian 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 required for major subdivisions and multi-family projects.

C. Location. Parking areas shall be located as follows:

1. Residential. Residential parking shall be located on the same parcel as the dwelling unit to be served.

2. Nonresidential. Nonresidential parking shall be located on the same parcel as the uses served or within 300 feet of the use or structure to be served (within 500 feet in the CC and CG zone districts) if shared parking or public parking facilities are used to meet the parking requirements.

3. Within required setbacks.

   a. Nonresidential parking shall not be located within a required front setback.

b. Nonresidential parking may be located within a required side or rear setback; provided, it is separated from the side or rear property line by a screen or perimeter landscape strip unless the sites share a joint access drive.

4. **Within the Downtown.** Nonresidential parking within the Downtown area identified by the General Plan shall not be located between a building and the fronting street.

D. **Parking stall and lot dimensions.** Each parking space, drive aisle, and other parking lot features shall comply with the minimum dimensions required by Table 3-8, and as illustrated in Figure 3-7 below.

1. **Parking space dimensions.** Per Table 3-8.

2. **Residential garages and carports.** Residential garages and carports shall be constructed and maintained with minimum clear inside dimensions of 20 feet in length and 10 feet in width for each vehicle space.

Table 3-8 - Minimum Off-street Parking Space Dimensions

Parking Angle	Standard Spaces		Compact Spaces		Minimum Drive Aisle Width (maneuvering areas)	
	Minimum Width	Minimum Length	Minimum Width	Minimum Length	One-Way	Two-Way
Parallel	8.5 ft	23 ft	7 ft	18 ft	12 ft	20 ft
30 degrees	8.5 ft	17 ft	7.5 ft	17 ft	11 ft	20 ft
45 degrees	8.5 ft	19.5 ft	7.5 ft	16 ft	13.5 ft	20 ft
60 degrees	8.5 ft	21 ft	7.5 ft	17 ft	18.5 ft	20 ft
Perpendicular	8.5 ft	19 ft	7.5 ft	16 ft	25 ft	25 ft

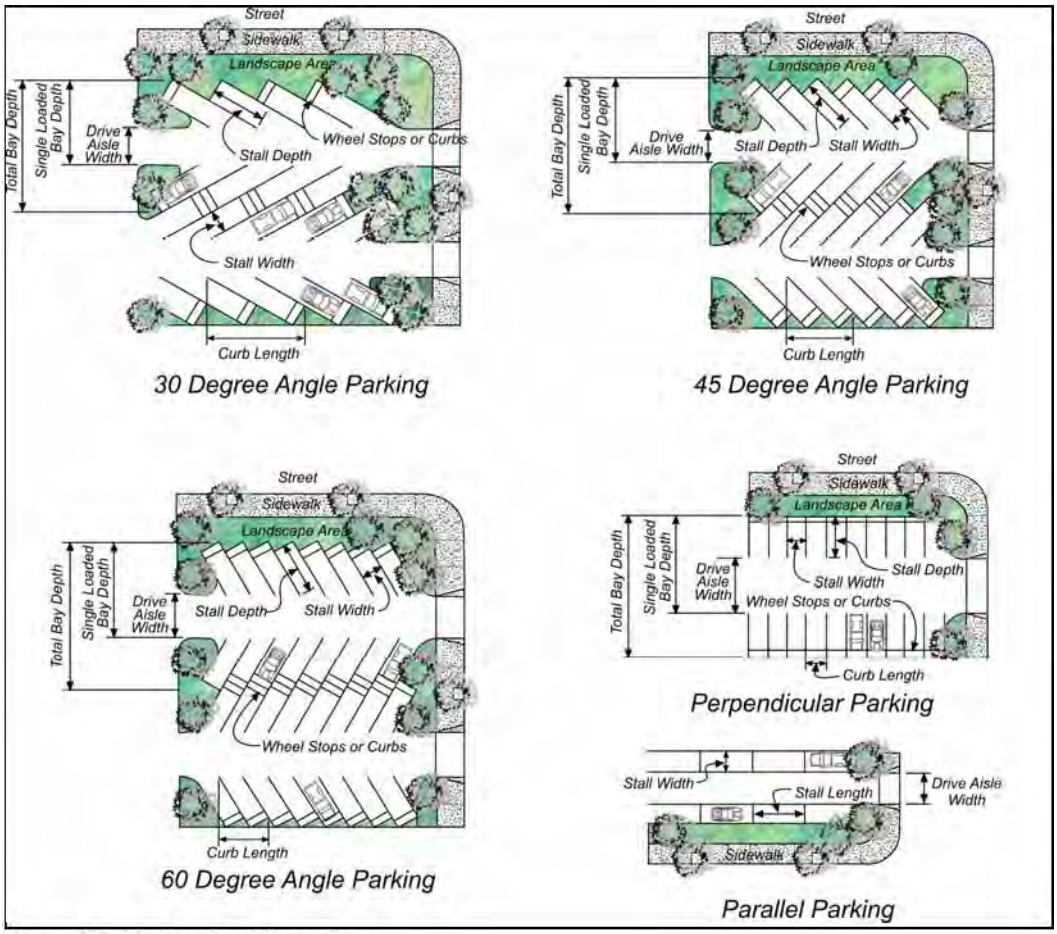

Figure 3-7 - Parking Lot Dimensions

E. Landscaping and screening. Landscaping and screening shall be provided in compliance with Section 9.34.050 (Landscape Location Requirements).

F. Lighting. Lighting shall be provided in compliance with Section 9.30.070 (Outdoor Lighting).

G. Striping and identification.

1. Parking spaces shall be clearly outlined with four-inch wide lines painted on the parking surface or with alternative materials as approved by the Director of Public Works.

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 shall require the prior approval of a re-striping plan by the Historic and Design Review Commission.

H. Surfacing.

1. All parking spaces and maneuvering areas shall be paved and permanently maintained with a durable pervious surface, asphalt, concrete, or comparable all-weather surfacing material approved by the Director of Public Works, and shall be graded to dispose of all surface water consistent with stormwater runoff detention/retention and BMPs per Subsection 9.66.040.B.3 of this Land Use Code to the satisfaction of the Director of Public Works.

2. Required parking areas in the AE, AR, NR, or RVL zoning districts may be surfaced with gravel, decomposed granite, or other all-weather surface as determined to be appropriate by the Director of Public Works, provided that the first 50 feet from a public street is paved with asphalt, concrete, or comparable all-weather surfacing material.

3. All grading plans relating to the parking facilities shall be reviewed and approved by the Director of Public Works and the Building Official before any work can commence.

4. Alternative parking surfaces shall be reviewed and approved by the Director of Public Works.

5. Access drives with slopes of 15 percent or more shall be paved with asphalt, concrete, or comparable all-weather surfacing material for the entire length of the access drive.

I. Wheel stops/curbing.

1. Curbing. In the RM, RH, CC, CG, CV, CM, IL, IG, and PF zoning districts, 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 except as provided by Subsection 9.34.060(a)(4).

2. Individual wheel stops. Wheel stops shall be firmly attached to the ground and placed to allow for two feet of vehicle overhang area within the dimension of the parking space.

3. Curbed walkways. Curbed walkways may be used as wheel stops and partially included in the minimum length of the parking space, only if the Public Works Director first determines that sufficient walkway width remains for safe and convenient pedestrian use.

J. Vehicle repair work not allowed. Repair work or servicing of motor vehicles shall not be conducted in a non-enclosed off-street parking facility, except for minor work commonly performed on operating vehicles that are associated with a residential use.

K. Modifications by Director. The Director may modify the provisions of this Section through a Minor Use Permit granted in compliance with Section 9.72.080.

9.36.100 - Driveways and Site Access

Each access drive 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.

A. Number of access drives. To limit the number of potential conflicts between pedestrians, bicyclists and motor vehicles, the number of access drives per parcel shall be the minimum number required to serve the intended use of the parcel. The Director of Public Works in consultation with the Director of Community Development and the Chief of Police shall determine the permitted number of access drives based on public safety and the intended use of the parcel.

B. Distance from street corners. Each access drive shall be located a minimum of 50 feet from the nearest intersection, as measured from the centerline of the access drive to the centerline of the nearest travel lane of the intersecting street, unless a lesser or greater distance is approved or required by the Director of Public Works.

C. Access drive spacing. Access drives shall be separated along the street frontage in compliance with the following:

1. Single-family and duplex residential development. Access drives on a single parcel shall be separated by at least 25 feet. Access drives on separate parcels shall be separated by at least 7 feet, unless a shared, single access drive is approved by the Director of Public Works. The separation shall not include the transition or wing sections on each side of the access drive.

2. Multi-family and nonresidential development. Where two or more access drives serve the same or adjacent multi-family or nonresidential development, the centerline of the access drives shall be separated by a minimum of 30 feet. Exceptions to this standard may be granted by the Director of Public Works.

3. Approval of all access points. Entrances from and exits to streets and alleys shall require encroachment permits, and shall only be provided at locations first approved by the Director of Public Works.

D. Access drive widths and lengths.

1. Single-family dwellings.

a. Each single-family dwelling shall be provided an access drive with a minimum length of 20 feet from the back of the sidewalk, or the edge of the right-of-way where there is no sidewalk.

b. The access drive width at the street entrance shall be between 10 and 20 feet wide.

2. Multi-family or nonresidential developments.

a. Each access drive shall have a minimum paved width in compliance with Table 3-8, above.

b. The maximum access drive width shall be 25 feet, exclusive of the area provided for a median divider.

E. Clearance from obstructions.

1. The nearest edge of an access drive 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 facilities.

2. Street trees shall be a minimum of 10 feet from the access drive, measured at the trunk.

3. Access drives shall have an overhead clearance of 10 feet in height except within a parking structure which may be reduced to seven feet, six inches.

F. Maneuvering within the access drives and parking lots.

1. Each of the following parking lots shall be designed so that no more than two parking spaces require backing movements within a street right-of-way in order to exit and enter the parking lot:

a. Parking lots accessed from an arterial or collector street, as shown on the Street Functional Classification Plan within the Transportation Element of the General Plan;

b. All parking lots containing more than:

(1) Ten parking spaces, accessed from a minor street, and serving a residential use; and

(2) Five spaces, accessed from a minor street, and serving a commercial, industrial, quasi-public, or public use.

2. No construction shall result in new parking lots or new parking spaces which require backing movements directly onto the following streets without the approval of the Public Works Director.

a. Alliance Road (including K Street from 13th to Samoa Boulevard);

b. Old Arcata Road;

c. Spear Avenue;

d. Janes Road;

e. Samoa Boulevard;

f. Union Street;

g. 11th Street between Janes Road and "G" Street; and

h. LK Wood Boulevard.

3. Each required parking space shall have unobstructed access from a street or alley, or from a drive aisle connecting with a street or alley, without requiring the moving of another vehicle.

4. Parking areas with access drives served from alleys shall have a minimum of 25 feet of maneuvering area, which may include the width of the alley.

G. Safety sight distance.

1. Within 20 feet of the street corner of any corner parcel, the height of any landscaping or screening may be required to be reduced in height or set back from the property line a distance to be determined to be necessary to ensure public safety by the Public Works Director and the Police Chief.

2. Other requirements relating to safety sight distance and visibility are identified in Subsection 9.30.040.E.

H. Surfacing. Access surfacing shall comply with the requirements in Subsection 9.36.090.H (Surfacing).

9.36.110 - Loading Space Requirements

A. Number of loading spaces required. Nonresidential uses shall provide off-street loading spaces in compliance with Table 3-9. Requirements for uses not listed shall be determined by the Director based upon the requirements for comparable uses.

Table 3-9 - 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 40,000 sf	1
	40,001 + sf	1 for each additional 40,000 sf, up to a maximum of 3.
Office, retail commercial, and other allowed uses	15,000 to 100,000 sf	1
	100,001 + sf	1 for each additional 100,000 sf, up to a maximum of 3.

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 11 feet in width, 35 feet in length, with 14 feet of vertical clearance.

2. Lighting. Lighting shall also comply with the provisions of Section 9.30.070 (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 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;

c. 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

d. 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.

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 “loading 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, durable pervious surface, or comparable material as determined by the Director of Public Works and shall be graded to dispose of all surface water to the satisfaction of the Director of Public Works and the Building Official.

b. All grading plans relating to the loading facilities shall be reviewed and approved by the Director of Public Works before any work can commence.

C. Modifications by Director. The Director may modify the provisions of this Section through a Minor Use Permit granted in compliance with Section 9.72.080, 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.

CHAPTER 9.38 -SIGNS

Sections:

9.38.010 - Purpose
9.38.020 - Applicability
9.38.030 - Sign Permit and Master Sign Plan Requirements
9.38.050 - Exemptions from Sign Permit Requirements
9.38.060 - Prohibited Signs
9.38.070 - General Requirements for All Signs
9.38.080 - Sign Standards by Zone
9.38.090 - Standards for Specific Sign Types
9.38.100 - Nonconforming Signs
9.38.110 - Amortization
9.38.120 - Judicial Review

9.38.010 - 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; and

D. Safeguard and protect the public health, safety, and general welfare.

9.38.020 - Applicability

A. Signs regulated. The requirements of this Chapter shall apply to all new signs and all changes to existing signs in all zoning districts. Any alteration to an existing sign shall require that the existing sign be modified to comply with all applicable provisions of this Chapter.

B. Applicability to sign content. The provisions of this Chapter do not regulate the message content of signs, regardless of whether the message content is commercial or noncommercial.

C. Historical signs. An existing sign found to be of historical significance by the Council on the basis of a recommendation of the Historic and Design Review Commission is exempt from the provisions of this Chapter after the Council has adopted findings indicating that the sign has specific historic value.

D. Definitions. Definitions of the specialized terms and phrases used in this Chapter may be found in Article 10 (Glossary) under "Sign."

9.38.030 - Sign Permit and Master Sign Plan Requirements

A. Sign permit and/or master sign plan required. No sign shall be constructed, installed, or modified, unless a sign permit and, where applicable, master sign plan approval is first obtained in compliance with this Section, or the sign is allowed without a sign permit by Section 9.38.050 (Exemptions from Sign Permit Requirements).

1. Criteria for approval. No sign permit or master sign plan shall be approved for an existing or proposed sign unless the sign is in compliance with all applicable requirements of this Chapter.

2. Effect of approval. An approved sign shall be installed and maintained only in compliance with its sign permit and/or plan.

3. Building Permit. A proposed sign may require a Building Permit in addition to a sign permit.

4. Temporary signs. Temporary signs and temporary sign permits shall comply with Subsection 9.38.090.F (Temporary signs).

B. Review authority.

1. Director. The Director shall review and approve sign permit applications in compliance with the findings required by Subsection E. (Findings for approval), except as provided by Subsection B.2. The Director may also refer a sign permit application to the Historic and Design Review Commission for review and decision, as part of a development project that is otherwise subject to Design Review, or as a sign permit application that is not part of a larger project.

2. Design Review. Design Review shall be required for:

a. Master sign plans in compliance with the findings required in Subsection E. (Findings for approval);

b. Sign permit applications proposing signs over 20 square feet in area, or proposing a sign that will increase the total sign area on a site to over 20 square feet; and

c. All signs for nonresidential uses in residential zoning districts, except signs for home occupations of two square feet maximum.

d. All signs located in Neighborhood Conservation Areas or on historic structures or sites.

3. Conditions of approval. The review authority may require conditions of approval that it determines are necessary to achieve the purpose, intent, and objectives of this Chapter.

C. Sign permit procedures.

1. Application requirements. An application for a sign permit shall be prepared, filed, and processed in compliance with Chapter 9.70 (Permit Application Filing and Processing).

2. Application contents. Each application shall include all of the following:

a. A site plan and building elevations, drawn to scale or photographed, accurately showing the proposed location of each sign in relation to other signs on the site and building, including each existing and proposed sign of any type, whether or not requiring a permit;

b. Plans for the sign, drawn to scale, accurately detailing the design and proposed appearance of the sign, including mounting and lighting details;

c. A complete color scheme for the sign;

d. Sufficient other details of the proposed sign to show that it complies with the provisions of this Chapter;

e. Written permission from the property owner for the placement of the proposed sign on the site;

f. 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 parcel; and

g. Other information as required by the Department.

D. Master sign plans. In order to achieve variety and to encourage good design, exceptions to the design requirements of this section may be permitted by the Historic and Design Review Commission, subject to a Master Sign Plan. Such exemptions may include, but are not limited to: height, area, location or illumination. In no case shall a sign prohibited in this Chapter be permitted, nor shall an exception be allowed that is detrimental to the health and safety of the community. The Master Sign Plan is intended to serve special and unique needs as listed below and is not an exemption or variance from the regulations of this Article. Subsequent sign applications meeting the approved Master Sign Plan design standards may exempt the property owner from Design Review.

1. A Master Sign Plan is an option for a parcel or parcels that meets one of the following conditions:

a. A non-residential project with two or more tenants;

b. One main building 10,000 square feet or greater in size;

c. Parcels one acre or greater in size;

d. Theater, auditoriums and other places of public assembly;

e. Parcels with frontage on more than one street or alley; or

f. A parcel that contains a non-conforming sign that has been involuntarily damaged to more than 50 percent of the replacement cost of the sign.

2. A Master Sign Plan shall include all the information and materials required by Subsection C.2 (Application contents), and shall provide design standards for the style, construction, height, size, illumination, and placement of signs within the proposed project.

E. Findings for approval. The approval of a sign permit or master sign plan shall require that the review authority first make the following findings, as applicable.

1. Sign permit findings. The proposed sign complies with the standards of 9.38.070 through 9.38.090, and is in substantial conformance with the design criteria in Subsection 9.38.070.E (Design criteria for signs).

2. Master sign plan findings. Each proposed sign complies with the finding required for sign permit approval in Subsection E.1 with exceptions provided in Section 9.38.050.

F. Expiration and extension of sign permit or approval.

1. Sign permit and sign plan approval shall expire 12 months from the date of approval unless the sign has been erected 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. The Director may make minor modifications, or may deny further extensions of the approved sign at the time of extension.

2. The expiration date of the sign permit or sign plan shall be automatically extended to concur with the expiration date of the companion Building Permit or other applicable permits.

G. Security for removal. A Building Permit application for a sign shall include either a financial security for $500 to cover the cost of removal of an existing nonconforming sign on the site, or a signed waiver of the applicant's right to receive a Certificate of Occupancy until compliance with all City sign requirements. No Building Permit for a sign shall be issued for which a financial security or waiver is required until the bond is posted or the waiver is signed by the property owner. If a bond is posted, the bond shall be released upon compliance with all applicable City sign requirements. All existing signs shall be brought into compliance within 30 days of site occupancy.

9.38.050 - Exemptions from Sign Permit Requirements

The following signs are allowed without sign permit or master sign plan approval, provided that they comply with Section 9.38.070 (General Requirements for All Signs), and any required Building Permit is obtained.

A. Nonstructural modifications and maintenance.

1. Modifications to sign copy on signs, or changes to the face or copy of changeable copy signs;

2. Nonstructural modifications of the face or copy of an existing sign installed in compliance with a sign plan; provided, the modifications are consistent with the approved master sign plan;

3. The normal maintenance of signs, except as identified in Subsection 9.38.100.B (Maintenance and changes); and

4. Maintenance and modification of nonconforming sign up to 50% of its replacement cost.

B. 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, subject to the following requirements.

a. Commercial and industrial zones. A site within a commercial or industrial zone established by Article 2 (Zoning Districts and Allowable Land Uses) shall be allowed one real estate sign of no more than six square feet, with a maximum height for freestanding signs of six feet, for each parcel frontage.

b. Residential zones. A site within a residential zoning district is allowed the following real estate signs.

(1) On-site signs. One residential real estate sign not more than six square feet in area, 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 six square feet in area 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 the public right-of-way.

2. Political, social issue or special event signs. These non-illuminated signs are allowed without a sign permit and shall not be prohibited by any other development restrictions (i.e. CC&R's), provided that the signs:

a. Are placed on private property with the property owner's consent;

b. Shall not exceed a total aggregate area of 12 square feet on a site within a residential zoning district, and 32 square feet within a nonresidential zoning district;

c. Are not placed within 15 feet of a fire hydrant, street sign, or traffic signal, or interfere with, confuse, obstruct, or mislead traffic;

d. Are not placed unlawfully. The placement of a sign in a public right-of-way in violation of this Chapter or any other provision of the Municipal Code is a nuisance, and any sign so placed may be removed summarily and disposed of by the City; and

e. Political and special event signs are placed no more than 60 days prior to the event and are removed within 10 days after the conclusion of the political campaign or event to which they relate. A sign that is not removed will be removed by the City at the expense of the political candidate or organization involved.

3. Construction Signs. Construction identification signs may be allowed in all zoning districts from the date of Building Permit issuance to 90 days after the Building Permit Final Inspection, and in compliance with the following standards:

a. Signs are non-illuminated;

b. The total sign area of all constructions sign shall not exceed 32 square feet; and

c. Sign height shall not exceed six feet.

4. Window signs. A sign posted, painted, placed, or affixed in or on a window exposed to public view for a period not exceeding 60 days. Window signs include an interior sign which faces a window exposed to public view and is located within three feet of the window.

5. Banners and pennants. The use of a banner or pennants may be allowed for a licensed business for a period not to exceed 30 days per year. See Subsection 9.38.090(F)(1) for banners and pennants exceeding 30 days per year.

C. Governmental signs. Signs installed by a Federal, State, or regional governmental agency, the City, County, or local agency, including the following signs:

1. Emergency and warning signs necessary for public safety or civil defense;

2. Traffic control and directional signs, and street name 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., civic buildings and facilities, public telephones, restrooms, and underground utilities).

5. Any sign, posting, public 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.

D. Other signs.

1. Street addresses. Street address numbers not exceeding 12 inches in height located in non-residentially zoned parcels, and not exceeding 6 inches in height for residentially zoned parcels.

2. Official flags. Flags of national, State, or local governments, fraternal, or public service agencies, provided that:

   a. The length of the flag shall not exceed one-third the height of the flag pole;

   b. The height of the flag pole shall not exceed 15 feet within a residential zoning district, and 30 feet within a nonresidential zoning district; and

   c. No private flag pole shall be located within a public right-of-way or required setback.

3. Ball Field advertising signs. Allowed for non-profit or governmental use. The signs shall not be visible from a street right-of-way.

4. Historical markers. 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. Parking lot signs. Signs identifying accessible parking spaces, tenant parking, customer parking only, etc., and/or noting that unauthorized vehicles may be towed, provided that each sign does not exceed two square feet in area.

6. Service station price signs. Service station price signs no larger than the minimum required by State law.

7. Time and temperature signs, barber poles. Time and temperature displays, and barber poles that do not exceed 10 square feet in area; and

8. Window signs. Window signs not greater than two square feet (aggregate) per use.

9. Portable sidewalk signs. Signs meeting the following standards:

   a. Maximum size of 24 square feet or less;

   b. No unusual hazards to the users of the sidewalks exist; and

   c. Located on-site.

9.38.060 - 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 and moving signs, including electronic message display signs, and variable intensity, blinking, or flashing signs, the use of flame as illumination or as a design feature, or signs that emit a varying intensity of light or color;

C. Internally illuminated plastic faced cabinet (can) signs except as expressly provided in Subsection 9.38.090.C;

D. Off-site signs (e.g., billboards), except as allowed by Subsection 9.38.090.G (Off-site directional signs) and Subsection 9.38.030D (Master Sign Plan) for a multi-parcel tract of land in which the signage is not necessarily on the same premise as the business;

E. Obscene signs (see definition under "Sign" in Article 10);

F. 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;

G. A sign in the form or shape of a directional arrow, or otherwise displaying a directional arrow, except as approved by the review authority, or as required for safety and convenience and for control of on-site vehicle and pedestrian traffic;

H. A vehicle sign including a sign attached to or suspended from a boat, vehicle, or other movable object that is parked within a public right-of-way, or located on private property but 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 a vehicle;

I. A sign burned, cut, or otherwise marked on or affixed to a rock, tree, or other natural feature;

J. A sign placed within a public right-of-way, except as provided by Subsection 9.38.070.D;

9.38.070 - General Requirements for All Signs

A. Sign area measurement. The measurement of sign area 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 lines. See Figure 3-8.

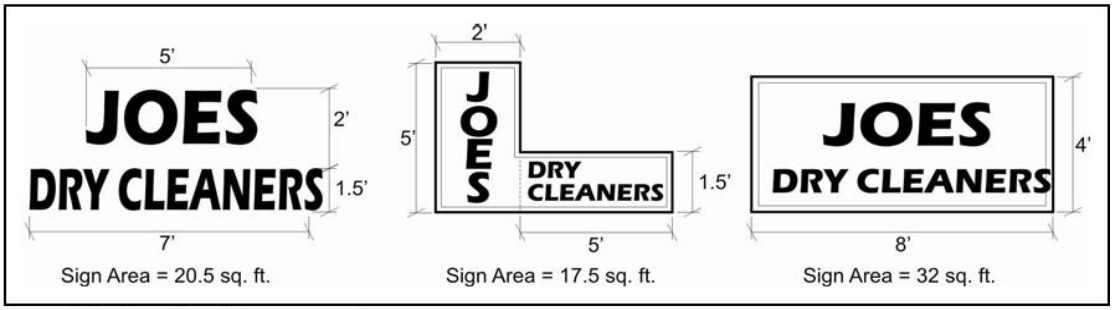

Figure 3-8 - Sign Area Measurement

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. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces.

4. Three-dimensional objects. Where a sign consists of one or more three-dimensional objects (e.g., balls, cubes, clusters of objects, sculpture, or statue-like trademarks), the sign area shall be measured as their maximum projection upon a vertical plane. See Figure 3-9.

5. Sign lighting. 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.

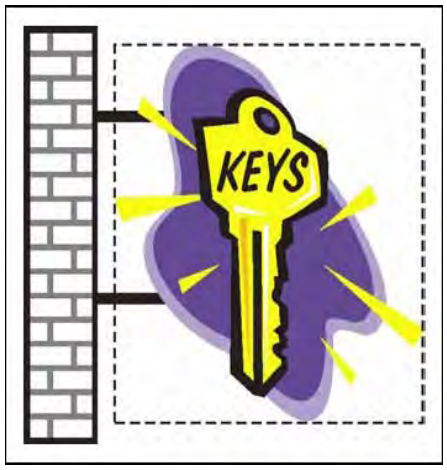

Figure 3-9 - 3-D Sign Measurement

B. **Sign height measurement and limit.** 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 3-10). Sign height shall not exceed the limit established for the applicable zoning district by Section 9.38.080 (Sign Standards by Zone), or as required for a specific sign type by Section 9.38.090 (Standards for Specific Sign Types).

1. **Grade.** Normal grade shall be construed to be the lower of either the:

   a. Existing grade before construction; or

   b. Newly established grade after construction, exclusive of any berming, filling, mounding, or excavating solely for the purpose of locating the sign.

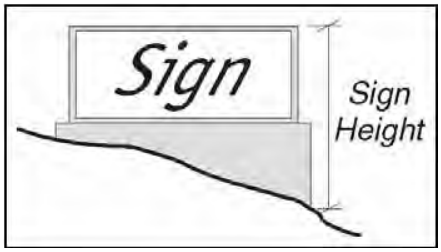

Figure 3-10 – Sign Height Measurement

2. **Where normal grade cannot be determined.** If normal grade cannot reasonably be determined, sign height shall be computed on the assumptions that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the street curb, or where there is no curb, the crown of a public street, whichever is lower.

C. **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 in Section 9.38.050 (Exemptions from Sign Permit Requirements).

2. Each sign shall be located in compliance with the setback requirements of the applicable zoning district, except where a different requirement is established by Section 9.38.080 (Sign Standards by Zone) or Section 9.38.090 (Standards for Specific Sign Types).

3. 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.

4. No sign shall be placed such that it will interfere with the operation of, or obscure any part of a door or window, or other building design element including a cornice or other decorative detail.

5. No sign shall be placed where the sign will interfere with pedestrian or vehicular visibility or safety.

6. No sign shall be placed on a roof.

D. **Signs placed within the public right-of-way.**

1. No sign shall be allowed in the public right-of-way except for:

   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 lines, pipes, poles, or other facilities; or

d. Emergency warning signs installed 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 9.96 (Enforcement and Penalties), the City shall have the right to recover from the owner, or person placing the sign, the full costs related to the removal and disposal of the sign.

E. 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 used 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. A proposed permanent sign should be designed by a professional (e.g., architect, building designer, landscape architect, interior designer, or one whose principal business is the design, manufacture, or sale of signs), or others who are capable of producing professional results.

b. Each permanent sign should be constructed by a person whose principal business is building construction or a related trade including sign manufacturing and installation, 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, to reduce maintenance costs and to prevent dilapidation.

3. Materials and structure.

a. Materials for permanent signs shall be durable and capable of withstanding weathering over the life of the sign with reasonable maintenance.

b. 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.

F. 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, make claims, 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.

G. Sign lighting. Sign lighting shall be designed to minimize light and glare on surrounding rights-of-way and properties.

1. Internally illuminated, plastic faced cabinet (can) signs are prohibited except as expressly provided in Subsection 9.38.090.C.

2. 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. Reflective-type bulbs 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.

3. The light illuminating a sign shall not be of an intensity or brightness that will interfere with the reasonable enjoyment of residential properties.

4. Sign illumination shall not blink, flash, flutter, or change light intensity, brightness, or color.

5. Colored lights shall not be used at a location or in a manner so as to be confused or construed as traffic control devices.

6. Neither the direct nor reflected light from primary light sources shall create hazards for pedestrians or operators of motor vehicles.

7. Light sources should utilize hard-wired fluorescent, LED, or compact fluorescent lamps, or other lighting technology that is of equal or greater energy efficiency. Incandescent lamps shall be prohibited.

H. Sign maintenance.

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 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, and unpainted areas shall be painted to match the adjacent portion of the structure or the sign support structure.

9.38.080 - Sign Standards by Zone

Each sign shall comply with the sign type, area, height, and other restrictions provided by Table 3-10, except as otherwise expressly provided in Subsection 9.38.030 D (Master Sign Plans), Section 9.38.50 (Exemptions from Sign Permit Requirements), or Section 9.38.90 (Standards for Specific Sign Types).

Table 3-10 - Sign Standards For Residential, Agricultural, and Resource Zones

Zone District	Land Use Activity	Allowed Sign Type	Maximum Sign Height	Maximum Sign Area Allowed
Residential, Agricultural, and Resources Zones	Single-Family, Secondary Dwelling Units, or Duplexes	Wall	Below edge of roof	8 square feet per parcel
	Multi-Family Projects and Structures, Non-Residential Uses	Wall or freestanding	Wall sign: below roof edge; Freestanding: 8 feet	20 square feet per parcel
Commercial, Industrial, or Public Facility Zones	Permitted and Conditionally Permitted Uses	See Section 9.38.090 (Standards for Specific Types of Signs)		20 square feet per business. Total sign area allowed per parcel shall not exceed 100 square feet.

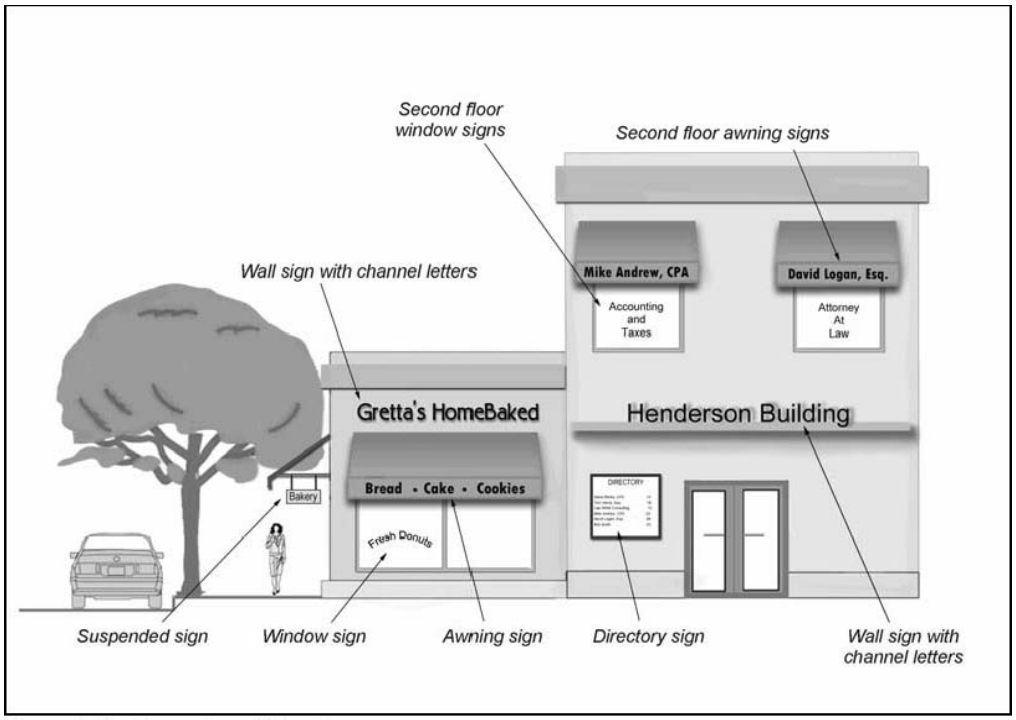

Figure 3-11 - Examples of Sign Types

9.38.090 - 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 9.38.080 (Sign Standards by Zone), unless this Section explicitly provides otherwise. Each sign shall also comply with the sign area, height, and other requirements of Section 9.38.080, and all other applicable provisions of this Chapter.

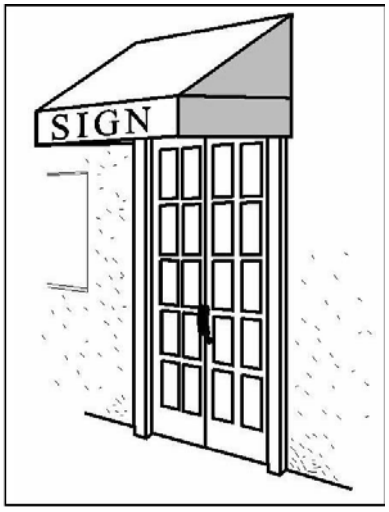

Figure 3-12 - Awning Sign

A. Awning signs. Signs on awnings are limited to ground level or second story occupancies only.

B. Freestanding signs. The following standards apply to freestanding signs in all zoning districts where allowed by Section 9.38.080 (Sign Standards by Zone).

1. Location requirements. A freestanding sign may be located within a required front or street side setback provided that it complies with the vision clearance area requirements of Subsection 9.30.040.E (Height Limit at street corners), and the height limit requirements of Subsection B.2.

2. Height limit. A freestanding sign shall not exceed a height of 10 feet if placed within 10 feet of a front or street side property line, 15 feet in the remaining area of the lot.

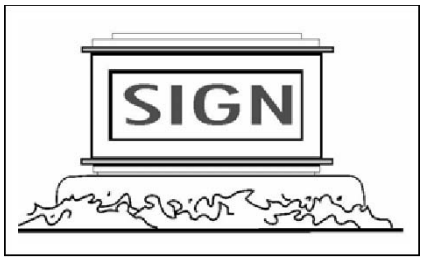

Figure 3-13 - Freestanding Sign

C. Freeway-oriented signs. A sign designed to be read from Highway 101 and/or Highway 299 may be approved in compliance with the following requirements.

1. Permit requirement. Use Permit approval is required for a freeway-oriented sign.

2. Where allowed. Use Permit approval may allow a freeway-oriented sign only within the CV zoning district~~s~~, on a parcel within 500 feet of the right-of-way of Highway 101 and/or Highway 299. Internally illuminated plastic faced cabinet (can) signs may be allowed for businesses/uses (as defined by Subsection 9.26.020.D) that primarily serve the traveling public.

3. Required findings. The approval of a Use Permit for a freeway-oriented sign shall require that the Commission first find that the use or site cannot be adequately identified by other signs allowed within the applicable zoning district, in addition to the other findings required for Use Permit approval by Section 9.72.080.

D. Murals. A mural placed on the wall of a structure may be allowed in any commercial or industrial zoning district subject to Minor Use Permit, 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 9.38.080 (Sign Standards by Zone); a mural with text shall comply with the sign area limitations applicable to the site.

2. 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 9.38.080 (Sign Standards by Zone).

1. The maximum projection of a sign from a structure wall over a public right-of-way shall not exceed 36 inches over a sidewalk. Larger projections from the structure wall over private property may be approved by the review authority. 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 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.

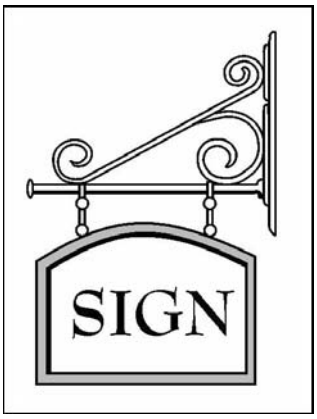

Figure 3-14 - Projecting Sign

4. Icon signs using shapes or symbols uniquely suited to the business, creative shapes, and three-dimensional signs are encouraged. See Figure 3-15.

5. Each sign shall have a maximum area of nine square feet on each sign face, regardless of the length of the building frontage.

6. Sign supports shall be well-designed and compatible with the design of the sign and building.

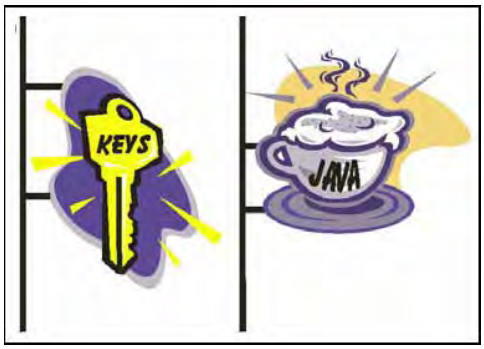

Figure 3-15 – Use of Icons/Symbols

F. Temporary signs. Temporary signs are allowed subject to the following requirements.

1. Banners and pennants. Temporary banners and pennants on private property 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 between 31 to 120 days with a temporary sign permit. See Subsection 9.38.050(B)(5) for an exemption.

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 financial security shall be posted for a banner permit as required by the Director. The financial security may be revoked if the temporary banners are not removed within two days following their scheduled use.

2. Subdivision directional signs, off-site. Off-site signs providing directions to a new subdivision may be allowed with sign permit approval, and shall comply with the following standards:

a. A maximum of two off-site signs may be located on private property (not within any public right-of-way).

b. The total area of each sign shall not exceed 12 square feet;

c. The height of each sign shall not exceed six feet;

d. The signs shall not be illuminated;

e. The signs may be displayed only during the first year following date of recordation of the final map, or until all of the units have been sold, whichever first occurs; and

f. The signs shall not affect pedestrian or vehicular safety.

3. Subdivision signs, on-site. On-site subdivision identification signs may be allowed with sign permit approval, in compliance with the following standards:

a. A maximum of two on-site signs may be located within the project boundaries; provided, no more than one sign for each street frontage is allowed, and multiple signs shall be separated by a minimum of 75 feet.

b. The area of each sign shall not exceed 24 square feet;

c. Sign height shall not exceed six feet;

d. The signs shall not be illuminated; and

e. The signs may be displayed only during the first year following date of recordation of the final map, or until all of the units have been sold, whichever first occurs.

G. Off-site directional signs. Off-site directional signs are discouraged; however they may be allowed in compliance with the requirements of this Subsection, and subject to the approval of a sign permit.

1. Where allowed. A directional sign may be approved only for sites where the review authority determines that a property owner has considered all permanent signs allowed by this Chapter, and site visibility still remains seriously impaired.

2. Sign standards. An approved directional sign shall comply with all the following requirements, the other standards of this Section for the type of sign being proposed (e.g., freestanding, projecting, wall, etc.), and the sign standards for the applicable zoning district in Section 9.38.080 (Sign Standards by Zone).

   a. Number, size, and height limitations. Only three off-site directional signs, and limited to one per street, shall be allowed. The sign shall not exceed an area of three square feet and not exceed six feet in height.

   b. Placement and content requirements. The sign shall be placed only on private non-residential property, at the location specified by the sign permit. The sign content shall be limited to business name and directional arrow.

H. Wall signs. Wall signs are allowed in all zoning districts where listed by Section 9.38.080 (Sign Standards by Zone). A wall sign shall not project more than 12 inches from the surface to which it is attached.

Figure 3-16 - Wall Sign

I. Window signs. The following standards apply to permanent window signs where allowed by Section 9.38.080 (Sign Standards by Zone).

   1. Maximum sign area. Permanent window signs shall not occupy more than 20 percent of the total elevation window area in which it is located.

   2. Sign materials. Signs shall consist of individual letters, logos, or symbols applied to, stenciled on, painted, or etched into the glass surface; however, neon signs with transparent backgrounds may be hung inside the window glass.

9.38.100 - 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 Land Use Code.

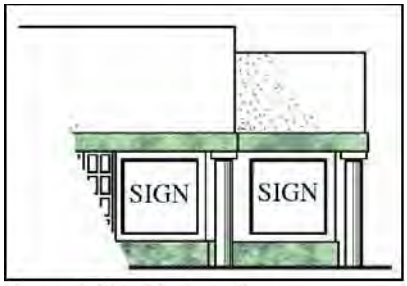

Figure 3-17 - Window Sign

A. General requirements. A nonconforming sign shall not be:

   1. Changed to another nonconforming sign with a greater degree of nonconformity;

   2. Structurally altered to a greater degree of nonconformity;

   3. Enlarged;

   4. Re-established after a business is discontinued for 120 days; or

   5. Re-established after damage or destruction to more than 50 percent of the replacement cost of the sign, or its components, as determined by the Building Official unless it is approved through a Master Sign Plan (see Sections 9.38.030 and 9.90.030).

B. Maintenance and changes. Nonstructural modifications and nonstructural maintenance (e.g., painting, rust removal) are allowed without a sign permit. Face changes and structural changes shall not exceed 50 percent of the replacement cost of the sign.

9.38.110 - Amortization

A. Schedule for correction or removal. Each sign that does not comply with the requirements of this Chapter shall be corrected or removed in compliance with the following schedule:

1. Immediately upon notification, each hazardous, abandoned, or dilapidated sign shall be corrected or removed.

2. Each nonconforming sign shall be removed, replaced, or altered in compliance with this Chapter and with Section 9.90.030 (Nonconforming Structures) of this Land Use Code.

B. Abatement and removal. If a sign is declared hazardous, dilapidated, or abandoned, the sign shall be abated in compliance with Municipal Code Section 5500 (Abatement of Nuisances), except that, in the case of a hazardous sign, the sign is considered a "structure" with respect to the "Uniform Code for the Abatement of Dangerous Buildings" and shall be abated in compliance with that code.

9.38.120 - 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 1094.8 et seq.

ARTICLE 4

Standards for Specific Land Uses

Chapter 9.40 - Sex-Oriented Business Regulations 4-3

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Contents

CHAPTER 9.40 -SEX-ORIENTED BUSINESS REGULATIONS

Sections:

9.40.010 - Purpose
9.40.020 - Permit Requirements
9.40.030 - Specific Regulations

9.40.010 - Purpose

The Council finds that sex-oriented businesses have objectionable operational characteristics and effects on adjacent areas, particularly when located in close proximity to each other, located in the vicinity of facilities frequented by minors, and when located in close proximity to residentially zoned property and other incompatible uses. Special regulation of these businesses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods. The primary purpose of these regulations is to preserve the public health, safety and welfare of the citizenry.

9.40.020 - Permit Requirements

Sex-oriented businesses may be established only in those zoning districts listed in Table 2-10, "Allowed Land Uses and Permit Requirements for Commercial, Industrial, and Public Facility Zoning Districts." Sex-oriented businesses shall only be allowed with an approved Use Permit in conformance with Section 9.72.080 (Use Permit and Minor Use Permit).

9.40.030 - Specific Regulations

The following specific regulations apply to sex-oriented businesses.

A. Specified distance separation requirements. Notwithstanding Section 9.40.020, no sex-oriented business shall be established or located:

1. Within a 300-foot radius from any existing residential zoning district;

2. Within 500 feet of any other sex-oriented business as defined in the glossary which is located either inside or outside the jurisdiction of the City; or

3. Within 500 feet from any existing park, playground, religious facility, or school.

The distance between a proposed sex-oriented business use and each of the facilities or areas specified in 1 through 3 above shall be measured from property line to property line.

B. No outside display. Sex-oriented businesses shall not display or exhibit any material depicting specified anatomical areas or specified sexual activities in a manner which exposes the material to the view of persons outside the building in which the sex-oriented business is located.

C. **No parking lot loitering or alcoholic beverage consumption.** No loitering or consumption of alcoholic beverages shall be allowed in sex-oriented entertainment businesses parking lots. Parking lots shall contain signage stating that loitering and consumption of alcoholic beverages are prohibited in parking lots.

CHAPTER 9.42 -STANDARDS FOR SPECIFIC LAND USES

Sections:

9.42.010 - Purpose and Applicability
9.42.020 - Accessory Retail and Service Uses
9.42.030 - Accessory Structures
9.42.040 - Accessory Uses
9.42.050 - Animal Keeping
9.42.060 - Bed and Breakfast Inns (B&Bs)
9.42.070 - Child Day Care Facilities
9.42.080 - Drive-Through Facilities
9.42.090 - Home Occupations
9.42.105 - Medical Marijuana: Cultivation and Dispensing
9.42.100 - Live/Work Units
9.42.110 - Mixed Use Projects
9.42.120 - Mobile Homes and Mobile Home
9.42.130 - Multi-Family and Small Lot Single-Family Projects
9.42.140 - Outdoor Retail Displays and Sales
9.42.150 - Outdoor Storage
9.42.160 - Recycling Facilities
9.42.164 - Formula Restaurants
9.42.170 - Second Units
9.42.180 - Service Stations
9.42.190 - Windmills for Electricity Generation

9.42.010 - 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 mitigate their potential adverse impacts.

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 Land Use 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 shall be 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) and 3 (Site Planning and Project Design Standards).

a. The applicability of the standards in this Chapter to the specific land uses listed is determined by Article 2 (Zoning Districts and Allowable Land Uses).

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.

9.42.020 - 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, 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. Review and approval requirements. Accessory retail and service uses require Design Review in compliance with Section 9.72.040. 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.

9.42.030 - Accessory Structures

The following standards apply to accessory structures, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. Relationship to primary use. An accessory structure shall be incidental in function and scale to the primary structures on the site, and shall not alter the character of the primary structures or use.

B. Timing of installation. An accessory structure shall only be constructed concurrent with or after the construction of a primary structure on the same site, unless construction in advance of a primary structure is authorized by a Minor Use Permit.

C. Attached structures. An accessory structure attached to the primary structure shall comply with all zoning district requirements applicable to the primary structure, including setback requirements and height limits.

D. Detached structures. An accessory structure that is detached from the primary structure shall comply with the following standards, except where this Section establishes a different requirement for a specific type of accessory structure.

1. Setback requirements. Each detached accessory structure shall comply with the setback requirements of the applicable zoning district, except that:

a. An accessory structure not exceeding eight feet in height or a floor area of 200 square feet may be located with side or rear setbacks of at least three feet, if the structure is located on the rear half of the lot and has a wall with no openings facing the side and rear property lines; except that where the rear property line abuts an alley, the structure shall be set back a minimum of 15 feet from the center line of the alley or five feet from the property line, whichever is greater; and

b. An agricultural accessory structure not used for animal keeping in other than the AE or AR zones shall be located on the rear half of its lot, shall be set back a minimum of 10 feet from side and rear lot lines, and no closer than 10 feet from any residential structure on another lot. See Section 9.42.050 (Animal Keeping) for setback requirements for animal keeping structures.

2. Height limits. An accessory structure shall comply with the height limits of the applicable zoning district, except where this Section establishes different requirements for a specific type of structure.

3. Separation between structures. An accessory structure shall maintain at least a six-foot separation from other accessory structures and the primary structure unless the Building Official determines otherwise (see definition foe “Accessory Structure” and related definitions).

9.42.040 - Accessory Uses

In addition to the uses expressly permitted in each zoning district by Article 2 (Zoning Districts and Allowable Land Uses), the following accessory uses are also permitted in compliance with this Section. See also Section 9.42.020 (Accessory Retail and Service Uses). These do not include uses covered in Section 9.42.105 (Medical Marijuana).

A. Administrative office. The administrative office for an approved primary use on the same lot.

B. Parking. Off-street parking and loading serving a primary use, located, designed, and constructed in compliance with Chapter 9.36 (Parking and Loading), but only if the parking is reserved for the residents, employees, patrons, or other persons participating in the primary activity on the site.

C. Production of goods. The production of goods for sale by a firm engaged in an approved primary commercial use on the same lot, if:

1. All goods produced are sold at retail by the same firm either on the same or other lots; and

2. Production does not occupy more than 50 percent of the total floor area and open sales, display, storage, and service area occupied by the firm on the lot, or more than 3,000 square feet, whichever is less.

D. Sales. Wholesale or retail sales to a buyer's custom order, of goods produced by an approved primary industrial use on the same lot.

E. Storage. The storage of goods sold by an approved primary commercial use on the same lot, or used in or produced by an approved primary industrial use on the same lot.

9.42.050 - 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.

A. Applicability. These regulations are intended to regulate the keeping of animals other than domestic household pets, limiting the number and type of animals on a site in reasonable relationship to the lot sizes and residential densities of the applicable zoning districts, to ensure that animal keeping does not create adverse impacts on adjacent properties by reason of dust, insect infestations, noise, odor, or visual blight.

B. Allowable animal keeping activities and permit requirements.

1. Activities and permit requirements. Animal keeping, including related animal husbandry activities (breeding, 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, in addition to any City approval required by this Section.

Table 4-1 - Allowable Animal Keeping and Permit Requirements

Type of Animal	Requirement by Zoning District				
	AE, AE-CZ, NR	AR, RVL	RL	RM, RH, CC, CG, & CM	Other Non-Commercial, Non-Residential Zones
Aviary for birds other than fowl or poultry	P	P	P	P	MUP
Beekeeping	P	P	—	—	MUP
Boarding or breeding kennels	P	MUP	—	—	MUP
Fowl and poultry, except roosters over 6 months of age	P	P	P	—	MUP
Hogs and swine	P	P	—	—	MUP
Horses and cows	P	P	—	—	MUP
Household pets	P	P	P	P	P
Roosters over 6 months of age	P	—	—	—	MUP
Other large animals (defined in Table 4-2)	P	P	—	—	MUP
Other small animals (defined in Table 4-2)	P	P	P	—	MUP
Medium sized animals	P	P	P	—	MUP

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. and D.
MUP	Minor Use Permit approval required in compliance with Section 9.72.080
—	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.** Animal keeping within the AR, RVL, and RL zones shall comply with the standards in Table 4-2, where allowed by Subsection B., Table 4-1. Animal keeping within the AE, AE-CZ, and NR zones shall comply with the setback requirements of this Subsection, but is otherwise not regulated by this Section. Modifications to these standards may be granted 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 setback from Dwellings (3)
Aviary for birds other than fowl and poultry	1 per 500 sf of lot area		25 ft
Beekeeping	1 hive in per 10,000 sf of lot area in RVL, no limit in other allowed zones	½ acre in RVL 2-½ acres in AR	25 ft
Fowl and poultry	1 per 500 sf of lot area		25 ft
Hogs and swine	4 per acre	½ acre in RVL 2-½ acres in AR	25 ft
Horses and cows	4 per acre	½ acre in RVL 2-½ acres in AR	25 ft
Other small animals - Including chinchillas, rabbits, non-poisonous reptiles, rodents, and other non- poisonous small animals.	No limitation when maintained within a dwelling as a household pet; 1 per 500 sf of lot area otherwise.		25 ft
Other medium animals - Pigmy goats, pot belly pigs, and miniature horses.	12 per acre		25 ft
Other large animals -Emus, goats, llamas, donkeys, ostriches, sheep, and similar sized animals.	8 per acre	½ acre in RVL 2-½ acres in AR	25 ft

Notes:

(1) Offspring allowed in addition to maximum number until six months of age, but not exceeding three times the number of adult animals.

(2) Minimum gross lot area required for the keeping of animals.

(3) Minimum setbacks from any door or window of any neighboring residential structure 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 the AE zone 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. All animal keeping shall adhere to the Best Management Practices as required by the City and as identified in Subsection 9.66.020 D.1.c of this Land Use Code.

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 noise standards established by Section 9.30.050 (Noise Standards).

9.42.060 - 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. Exterior appearance. The exterior appearance of an existing structure housing the B&B in an AE, AR or residential zoning district shall not be altered from its residential character except for allowed signs, and any structural modifications necessary to comply with Title 24 of the California Code of Regulations. A new structure for a B&B shall require Design Review in compliance with Section 9.72.040, to ensure that the structure is designed consistent with the residential character of the surrounding neighborhood.

B. Limitation on guest rooms. A B&B in an AE, AR or residential zoning district shall be limited to five guest rooms. A Minor Use Permit shall be required for six or more guest rooms in an AE, AR, or residential zoning district.

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. A B&B within a residential zoning district shall not be used for receptions, private parties, or similar activities for people other than the lodging guests, unless the activities are specifically authorized by the Use Permit or Minor Use Permit approval for the B&B.

D. Off-street parking. Off-street parking shall be provided at a ratio of one space for each guest room, plus a parking space for the on-site owner/manager of the B&B pursuant to Section 9.36.040 (Number of Parking Spaces Required). Parking shall not be located in a required front or side setback. 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 9.30.070 (Outdoor Lighting).

E. Signs. See Chapter 9.38.

9.42.070 - 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 Land Use 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 Health and Safety Code Sections 1597.46 et seq., 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 lot be directly abutted by a large family day care center on two or more sides.

2. Parking. A large family day care home shall be provided parking and drop-off areas as follows.

a. A minimum of two off-street parking spaces shall be provided in addition to those required by Section 9.36.040 (Number of Parking Spaces Required) for the single-family dwelling. The driveway may be used to provide these spaces, if the driveway is of sufficient length to accommodate the parking of two vehicles without either blocking any sidewalk or other pedestrian access.

b. A home located on a site with no on-street parking immediately in front of the site shall provide two off-street parking spaces for drop-offs in addition to the spaces required by Subsection C.2.a.

c. A home located on a street with a speed limit of 30 miles per hour or greater shall provide two off-street parking spaces for drop-offs in addition to the spaces required by Subsection C.2.a, that are 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 adequate 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 Section 9.30.050 (Noise).

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. Child care facilities are eligible for a fencing exemption that would allow a five foot in height fence to adjoin a street property line.

2. Parking and loading.

   a. Off-street parking shall be provided as required through the use permit process, but shall be a minimum of one space per employee on the largest shift.

   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 use permit process, and noise attenuation and sound dampening shall be addressed.

9.42.080 - 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 be designed and operated to mitigate problems of congestion, excessive pavement, litter, and noise.

2. Limitation on location. Drive-through service windows for restaurants shall be restricted to the Valley West area.

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 separated from other on-site traffic circulation on the site.

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.

3. Walkways. A pedestrian walkway shall not intersect a drive-through aisle queuing area, but a walkway may be placed on the egress side and conforms to ADA requirements.

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.

9.42.090 - Home Occupations

The following standards for home occupations are intended to encourage 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. Permit requirements. A home occupation in compliance with this Section shall require a City Business License. A home occupation that does not comply with each applicable requirement of this Section may be authorized by Minor Use Permit, provided that the review authority first makes the following findings, in addition to those required by Section 9.72.080 for Minor Use Permits:

1. The operating characteristics of the business will be such that it will have no significant adverse impact on the owners or occupants of neighboring properties; and

2. The specific location, building type, orientation, access characteristics or other features of the subject property warrant the approval of the proposed use although it would not typically conform to zoning limitations.

Before receiving a City business license for a home occupation, all applicants shall sign an affidavit attesting that they have read, understand, and will comply with the standards and requirements of this Section, and that they agree to pay for all City costs incurred in the enforcement of these provisions, including attorneys' fees, if they are subsequently found to be operating a business in violation of the Municipal Code or other City ordinance.

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;

c. Office-only uses, including an office for an architect, attorney, consultant, counselor, doctor, insurance agent, planner, tutor, writer, and electronic commerce; and

d. Personal trainers and licensed massage therapy and physical therapy.

2. Uses prohibited as home occupations. Businesses with operating characteristics that have significant adverse impacts on the owners or occupants of the neighboring residential properties shall be prohibited as home occupations. Examples of such operating characteristics are: dust, glare, heat, noise, noxious gasses, odor, smoke, excessive traffic, vibration, use of explosives or highly combustible materials, and use of hazardous or toxic materials. The types of businesses that will be prohibited as home occupations include: vehicle repair, animal hospitals and boarding facilities, storage yards, medical clinics and laboratories, sex-oriented businesses, wood cutting businesses, welding and machine shop operations, and other similar businesses, and all uses covered in Section 9.42.105 (Medical Marijuana).

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. 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.

3. Signs. There shall be no signs, other than one name plate, not exceeding two square feet in area, and only if attached flush to a wall of the structure. Hand lettered or magnetic door vehicle signs identifying the business are allowed; however, no vehicle sign shall be used to direct clients to the home occupation from off the site, pursuant to Section 9.38, Signs.

4. 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.

5. 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.

6. 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.

7. Employees. A home occupation shall have no on-site employees other than full-time residents of the dwelling, unless a Minor Use Permit is obtained that would allow on-site employees.

8. Client/customer visits. The home occupation shall be operated so as to not require more than 12 vehicle trips per day of clients, customers, and/or visitors 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.

9. Deliveries. 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 pick-ups and deliveries.

10. Utility service modifications. No electric or gas utility service to the dwelling shall be modified solely to accommodate a home occupation, other than as required for normal residential use.

9.42.100 - 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 9.42.110 (Mixed Use Projects).

B. Application requirements. An application for a Live/Work Unit on a former mill site, dry cleaner site, service station site, or other sites determined by the Director to possibly contain hazardous materials shall 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 by Article 2 (Zoning Districts and Allowable Land Uses). A live/work unit shall not be established or used in conjunction with any of the following activities:

1. Sex-oriented 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 unless a Use Permit is obtained;

4. Welding, machining, or any open flame work unless a Use Permit is obtained; and

5. Any other activity or use, as determined by the Director or Building Official 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 unless a Use Permit is obtained.

D. Residential density. Live/work units shall not exceed a maximum density of 33 units per acre. The affordable housing requirements and incentives of Chapter 9.32 shall not apply to live/work units.

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 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 and other uses in the structure. Access to each live/work unit shall be provided from a public street, or common access areas. 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 street-fronting ground floor area of a live/work unit shall be used only for non-residential purposes; the review authority may require a deed restriction to maintain this requirement.

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, as required by Subsection F.2. The living space of a live/work unit shall have exterior access and an interior connection to the work space.

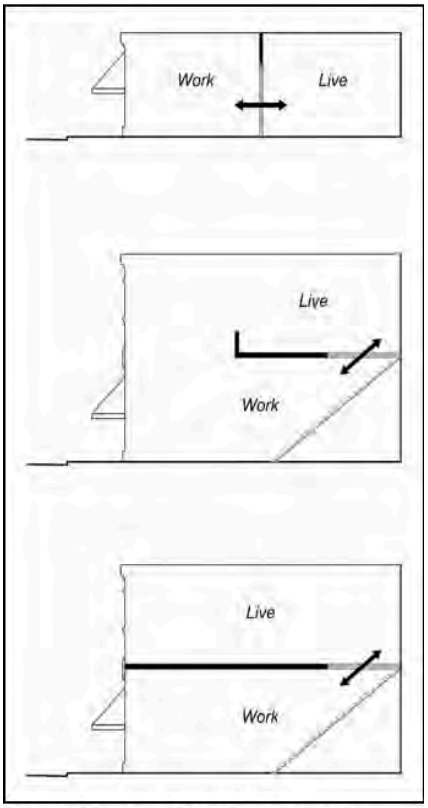

Figure 4-1 - Live/Work Arrangement
Examples

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 off-street parking spaces pursuant to Section 9.36.040 (Number of Parking Spaces Required). The review authority may modify this requirement for the use of existing structures with limited parking.

7. Accessibility. The non-residential portions of a live/work unit shall comply with all applicable provisions of the Americans with Disabilities Act (ADA).

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 prospective 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. The live/work unit approval may limit the number of employees who do not reside in the live/work unit on the basis of constrained parking or traffic conditions in the site vicinity. The number of employees shall be limited in compliance with Building Code and Fire Code requirements, based on the non-residential floor area within the live/work unit.

5. Client and customer visits. Client and customer visits to live/work units are allowed subject to any applicable conditions of the Use Permit, if applicable, 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 pursuant to Section 9.42.100 C 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 9.72.080 (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. The proposed use of each live/work unit would not adversely affect the health or safety of live/work unit residents by creation of dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous because of materials, processes, products, or wastes.

9.42.105 – Medical Marijuana: Cultivation and Dispensing

A. Purpose. The purpose and intent of this section is to regulate the cultivation and dispensing of medical marijuana in a manner that protects the health, safety and welfare of the community. This section is not intended to interfere with a patient's right to medical marijuana, as provided for in California Health & Safety Code Section 11362, nor does it criminalize medical marijuana possession or cultivation by specifically defined classifications of persons, pursuant to state law.

B. Applicability. No part of this ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation. The cultivation, processing and dispensing of medical marijuana in the City of Arcata is controlled by the provisions of this section of the Land Use Code. Accessory uses and home occupations, where medical marijuana is involved shall be governed by the provisions of this section.

C. Release of Liability and Hold Harmless. The owner and permittee of a medical marijuana cooperative, collective or cultivation facility shall release the City of Arcata, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of cooperative or collective or cultivation owners, operators, employees, or clients for violation of state or federal laws in a form satisfactory to the Director. In addition, the owner and permittee of each medical marijuana cooperative, collective or cultivation facility shall indemnify and hold harmless the City of Arcata and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the cooperative, collective or cultivation facility, and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise out of the distribution, cultivation and/or on- or off-site use of medical marijuana provided at the cooperative, collective or cultivation facility in a form satisfactory to the Director.

D. Medical Marijuana for Personal Use. An individual qualified patient shall be allowed to cultivate medical marijuana within his/her private residence. A primary caregiver shall only cultivate medical marijuana at the residence of a qualified patient for whom he/she is the primary caregiver. Medical marijuana for personal use shall be in conformance with the following standards:

1. The medical marijuana cultivation area shall not exceed 50 square feet and not exceed ten feet (10') in height per residence;

   a. Medical marijuana cultivation lighting shall not exceed 1200 watts;

   b. The use of gas products (CO_2, butane, etc.) for medical marijuana cultivation or processing is prohibited;

   c. In accordance with Section 9.42.090.B.2., medical marijuana cultivation and sale is prohibited as a Home Occupation. Per Section 9.42.040, Accessory Uses, medical marijuana cultivation and sales is not considered an accessory use. No sale or dispensing of medical marijuana for personal use is allowed;

d. From a public right of way, there shall be no exterior evidence of medical marijuana cultivation either within or outside the residence;

e. The qualified patient shall reside in the residence where the medical marijuana cultivation occurs;

f. The qualified patient shall not participate in medical marijuana cultivation in any other residential location within the City of Arcata;

g. The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and not be used primarily for medical marijuana cultivation;

h. The medical marijuana cultivation area shall be in compliance with the current, adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s)); and

i. The medical marijuana cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

2. Any proposed medical marijuana cultivation by an individual qualified patient or primary caregiver that does not meet the grow area standard of Section 9.42.105 D. 1. shall require a Zoning Administrator Interpretation of the need for additional cultivation area. Documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible. The request for Interpretation shall include written permission from the property owner. The Zoning Administrator shall review the submitted information and make an interpretation in accordance with Section 9.10.050. The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers. Approved medical marijuana cultivation for personal use that exceeds 50 square feet shall conform to the following standards:

   a. Shall be in compliance with §9.42.105 D 1 a. – i. above; and

   b. The medical marijuana cultivation area shall not exceed an additional 50 square feet for the total of 100 square feet and not exceed ten feet (10') in height per residence; and

   c. At a minimum, the medical marijuana cultivation area shall be constructed with a 1-hour firewall assembly of green board; and

   d. Cultivation of medical marijuana for personal use is limited to detached single family residential properties, or the medical marijuana cultivation area shall be limited to a garage or self-contained outside accessory building that is secured, locked, and fully enclosed.

E. Permit requirements for Medical Marijuana Cooperatives or Collectives. Medical marijuana cooperatives or collectives may be established only in those zoning districts listed in Table 2-10, "Allowable Land Uses and Permit Requirements for Commercial, Industrial, and Public Facility Zoning Districts." Medical marijuana cooperatives or collectives shall only be allowed with an approved Use Permit in conformance with Section 9.72.080 (Use Permit and Minor Use Permit). 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 a Use Permit to operate a medical marijuana cooperative or collective. A medical marijuana cooperative or collective shall consist of a business form that satisfies state law to act cooperatively or collectively in the acquisition and distribution of medical marijuana.

Notwithstanding the provisions of Chapter 9 (Nonconforming Uses, Structures, and Parcels), an existing cooperative or collective in operation as of the effective date of this ordinance shall be brought into full compliance with the provisions of this section within one year of the effective date of the ordinance establishing this section.

1. Specific Regulations. The following specific regulations apply to medical marijuana cooperatives or collectives.

   a. The total number of medical marijuana cooperatives or collectives within the City of Arcata shall be limited to four (4) until which time one (1) or two (2) of the four (4) cooperatives or collectives ceases to operate, then the total number shall be reduced to three (3) and ultimately two (2).

   b. In addition to Section 9.72.080 F (Use Permit Findings and decision), the review authority should give special consideration to approving cooperatives or collectives located: within a 300 foot radius from any existing residential zoning district, within 500 feet of any other medical marijuana cooperative or collective as defined in the glossary which is located either inside or outside the jurisdiction of the City, or within 500 feet from any existing public park, playground, day care, or school.

   c. Source of medical marijuana. A medical marijuana cooperative or collective shall only dispense marijuana from the following sources:

      (1) Permitted Cooperative or Collective. If the Use Permit authorizes limited, on-site medical marijuana cultivation at the cooperative or collective, a permitted medical marijuana cooperatives' or collectives' on-site cultivation shall not exceed twenty-five (25) percent of the cooperatives' or collectives' total floor area, but in no case greater than 1,500 square feet and not exceed ten feet (10') in height.

      (2) Off-site Permitted Cultivation. The cooperative or collective cultivates medical marijuana in an off-site location in accordance with applicable zoning regulations from the jurisdiction in which it is located. Zoning compliance documentation from the applicable jurisdiction shall accompany the Use Permit application and be updated annually.

(3) Qualified Patients. In the case of a medical marijuana cooperative or collective, the medical marijuana is acquired from an individual qualified patient who cultivated the medical marijuana in accordance with the standards in Section 9.42.105.D., the qualified patient received no monetary remittance, and the qualified patient is a member of the medical marijuana cooperative or collective. Pursuant to California Health and Safety Code §11362.765 (c) a collective or cooperative my credit its members for medical marijuana provided to the collective or cooperative, which they may allocate to other members.

d. Notwithstanding Section 9.72.080 (Use Permit and Minor Use Permit) a medical marijuana cooperative or collective application for a Use Permit shall include a detailed Operations Manual including but not necessarily limited to the following information:

(1) Authorization for the City, its agents and employees, to seek verification of the information contained within the application;

(2) A description of the staff screening process including appropriate background checks;

(3) The hours and days of the week the medical marijuana cooperative or collective will be open;

(4) Text and graphic materials showing the site, floor plan and facilities of the medical marijuana cooperative or collective. The material shall also show adjacent structures and land uses;

(5) A description of the security measures located on the premises, including but not limited to, lighting, alarms, and automatic law enforcement notification;

(6) A description of the screening, registration and validation process for qualified patients;

(7) A description of qualified patient records acquisition and retention procedures;

(8) The process for tracking medical marijuana quantities and inventory controls including on-site cultivation, processing, and/or medical marijuana products received from outside sources;

(9) Description of measures taken to minimize or offset energy use from the cultivation or processing of medical marijuana;

(10) Description of chemicals stored, used and any effluent discharged into the City's wastewater and/or stormwater system; and

(11) Other information required by the Community Development Director.

2. Operating Standards. Medical marijuana cooperatives or collectives shall comply with all of the following operating standards.

a. No dispensing medical marijuana to an individual qualified patient or primary caregiver more than twice a day;

b. Medical marijuana cooperatives or collectives shall only dispense medical marijuana to an individual qualified patient who has a valid, verified physician's recommendation. The medical marijuana cooperative or collective shall verify that the physician's recommendation is current and valid;

c. Medical cooperatives or collectives shall display the client rules and/or regulations in a conspicuous place that is readily seen by all persons entering the cooperative or collective. The client rules and/or regulations shall include, but not limited to:

(1) Each building entrance to a medical marijuana cooperative or collective shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming medical marijuana on the premises or in the vicinity of the cooperative or collective is prohibited unless specifically authorized with the Use Permit.

(2) The building entrance to a medical marijuana cooperative or collective shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) are precluded from entering the premises unless they are qualified patients and/or they are under the supervision of their parent or legal guardian.

f. Medical marijuana cooperatives or collectives shall not permit the on-site display of marijuana plants except for approved signs according to Chapter 9.38 (Signs);

g. Medical marijuana cooperatives or collectives shall only permit the distribution of live plants, starts and clones as allowed by the approved Use Permit. Such distribution shall be limited to qualified patients or primary caregiver;

h. Medical marijuana cooperatives or collectives shall only permit the on-site display or sale of marijuana paraphernalia used for the consumption of medical marijuana as allowed by the approved Use Permit;

i. Medical marijuana cooperatives or collectives shall comply with other conditions as outlined in the Use Permit;

j. Medical marijuana cooperatives or collectives shall maintain all necessary permits, and pay all appropriate taxes. Medical marijuana cooperatives or collectives shall also provide invoices to vendors to ensure vendor's tax liability responsibility;

k. Medical marijuana cooperatives or collectives shall implement procedures as outlined in their approved Operations Manual;

l. Medical marijuana cooperatives or collectives shall submit an "Annual Performance Review Report" for review and approval by the Community Development Director. The "Annual Performance Review Report" is intended to identify effectiveness of the approved Use Permit, Operations Manual, and Conditions of Approval, as well as the identification and implementation of additional procedures as deemed necessary. The Community Development Director may review and approve amendments to the approved "Operations Manual"; and the frequency of the "Annual Performance Review Report". Medical marijuana cultivation and dispensing monitoring review fees pursuant to the current Planning and Zoning Fee Resolution shall accompany the "Annual Performance Review Report" for costs associated with the review and approval of the report.

3. Permit Revocation or Modification. A use permit may be revoked or modified according to Section 9.96.070 (Permit Revocation or Modification). Use Permit revocation proceedings may occur for non-compliance with one or more of the items 2.a. through l. above.

4. Transfer of Use Permit. The rights of an approved Use Permit to operate a medical marijuana cooperative or collective may be transferred to another cooperative or collective as a Use Permit modification according to Section 9.96.070 (Permit Revocation or Modification).

F. Medical Marijuana Cultivation for Cooperative or Collective. Except as permitted in Section 9.42.105 E. 1. c. (1) medical marijuana cultivation and processing for medical marijuana cooperatives or collectives is considered an agricultural use and may be established only in those zoning districts listed in Table 2-1 "Allowable Land Uses and Permit Requirements for Agricultural and Resource Zoning Districts" and 2-10, "Allowable Land Uses and Permit Requirements for Commercial, Industrial, and Public Facility Zoning Districts." Medical marijuana cultivation and processing for a medical marijuana cooperative or collective shall only be allowed with an approved Use Permit in conformance with Section 9.72.080 (Use Permit and Minor Use Permit). 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 a Use Permit to operate medical marijuana cultivation or processing facility.

Notwithstanding the provisions of Chapter 9 (Nonconforming Uses, Structures, and Parcels), an existing medical marijuana cultivation and processing structure or use in operation as of the effective date of this ordinance shall be brought into full compliance with the provisions of this section within one year of the effective date of the ordinance establishing this section.

1. Specific Regulations. The following specific regulations apply to medical marijuana cultivation and processing.

   a. The total number of medical marijuana cultivation and processing facilities within the City of Arcata shall be limited to four (4) until which time one (1) or two (2) of the cultivation and processing facilities ceases to operate, then the total number shall be reduced to three (3) and ultimately two (2). If a medical marijuana cooperative or collective allows for marijuana cultivation and processing pursuant to Section 9.42.105 E. 1. c. (1), the cooperative or collective shall be counted as one of the four (4) (or three (3), or two (2) as noted above) allowed marijuana cultivation and processing facilities.

   b. The grow area shall be within a self-contained structure, with a 1-hour firewall assembly made of green board, shall be ventilated with odor control, and shall not create a humidity or mold problem;

   c. The medical marijuana cultivation and processing facility shall not adversely affect the health or safety of the nearby residents or businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes;

   d. The medical marijuana cultivation and processing facility must be permitted in conjunction with an associated medical marijuana cooperative or collective in accordance to applicable zoning regulations from the jurisdiction in which it is located;

   e. The medical marijuana cultivation and processing facility shall comply with stormwater, wastewater, and applicable greenhouse gas reduction requirements;

   f. The size and scale of the cultivation shall be proportional to the qualified patient load of an associated medical marijuana cooperative or collective in accordance to applicable zoning regulations from the jurisdiction in which it is located;

   g. Medical marijuana cultivation and processing facilities shall not permit the on-site display of marijuana plants except for approved signs according to Chapter 9.38 (Signs);

   h. Medical marijuana cultivation and processing facilities shall not permit the on-site display or sale of paraphernalia used for the use or consumption of medical marijuana;

i. Medical marijuana cultivation and processing facilities shall comply with other conditions as outlined in the Use Permit;

j. Medical marijuana cultivation and processing facilities shall maintain all necessary permits, and pay all appropriate taxes. Medical marijuana cultivation and processing facilities shall also provide invoices to vendors to ensure vendor's tax liability responsibility;

k. Notwithstanding Section 9.72.080 (Use Permit and Minor Use Permit) a medical marijuana cultivation and processing application for a Use Permit shall include a detailed Operations Manual including but not necessarily limited to the following information:

(1) Authorization for the City, its agents and employees, to seek verification of the information contained within the application;

(2) A description of the staff screening process including appropriate background checks;

(3) The hours and days of the week the medical marijuana cultivation and processing facility will be open;

(4) Text and graphic materials showing the site, floor plan and facilities of the medical marijuana cultivation and processing facility. The material shall also show adjacent structures and land uses;

(5) A description of the security measures located on the premises, including but not limited to, lighting, alarms, and automatic law enforcement notification;

(6) The process for tracking medical marijuana quantities and inventory controls;

(7) Description of measures taken to minimize or offset energy use from the cultivation or processing of medical marijuana;

(8) Description of chemicals stored, used and any effluent discharged into the City's wastewater and/or stormwater system; and

(9) Other information required by the Community Development Director.

n. Medical marijuana cultivation and processing facilities shall implement procedures as outlined in their approved Operations Manual;

o. Medical marijuana cultivation and processing facilities shall submit an "Annual Performance Review Report" for review and approval by the Community Development Director. The "Annual Performance Review Report" is intended to identify effectiveness of the approved Use Permit, Operations Manual, and Conditions of Approval, as well as the identification and implementation of additional procedures as deemed necessary. The Community Development Director may review and approve amendments to the approved "Operations Manual"; and the frequency of the "Annual Performance Review Report". Medical marijuana cultivation and processing monitoring review fees pursuant to the current Planning and Zoning Fee Resolution shall accompany the "Annual Performance Review Report" for costs associated with the review and approval of the report.

9.42.110 - 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 potentially significant impacts on 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 potential impacts 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 Article 2 (Zoning Districts and Allowable Land Uses); provided, that where a mixed use project is proposed with a use 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 space within the first 75 feet of floor area measured from each building face adjacent to a public or private street.

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 9.36.080 (Reduction of Parking Requirements).

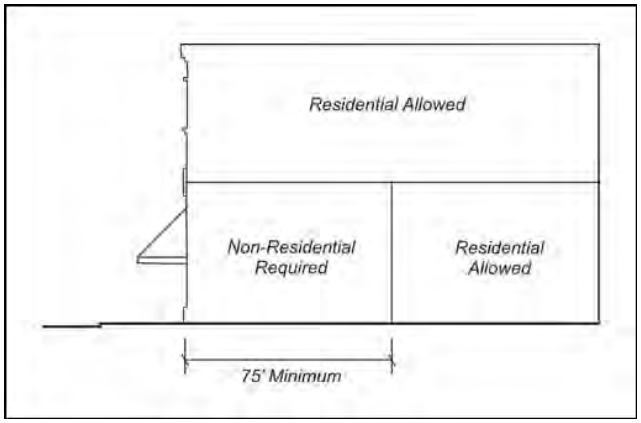

Figure 4-2 - Location of Residential in a Mixed Use Project

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 adverse impacts from nonresidential project noise, in compliance with Section 9.30.050 (Noise Standards).

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.

9.42.120 - Mobile Homes and Mobile Home Parks

This Section provides requirements and development standards for the use of mobile 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 the industry standards measured from the vertical side of the mobile home, and the roof pitch shall be no less than the industry standards;

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, 1974.

B. Mobile home park standards. The site for the mobile home park shall comply with the following requirements.

1. Permit requirements. A mobile home park shall require Design Review in compliance with Section 9.72.040, in addition to the Use Permit approval required by Article 2 (Zoning Districts and Allowable Land Uses).

2. Allowable uses. Use Permit approval for a mobile home park may authorize the following uses in addition to individual mobile homes.

a. Accessory structures, including awnings, portable, demountable or permanent carports, fences or windbreakers, garages, porches, storage cabinets, a management facility, laundry facility, swimming facilities, recreation room, recreational vehicle storage areas, vending machines, and other uses determined by the review authority to be of a similar nature.

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 designed for and limited to use by residents of the mobile home park and their guests.

c. Public utility and public service uses and structures.

d. Accessory retail and service uses for park residents as authorized by Use Permit approval, and in compliance with Section 9.42.020 (Accessory Retail and Service Uses).

3. Standards. Each mobile home park shall comply with the following design and development standards.

a. Minimum site area. A mobile home park may be approved only on a site of one acre or larger.

b. Density. A mobile home park shall comply with the density limitations of the General Plan and the applicable zoning district.

c. Setback requirements.

(1) Property lines. Mobile homes and other structures shall be set back a minimum of 10 feet from all interior property lines, and 20 feet from the each street right-of-way adjoining the mobile home park. Park perimeter setback areas shall be landscaped and continually maintained, in compliance with Chapter 9.34 (Landscaping).

(2) Separation between structures. Each mobile home shall be separated from another mobile home or accessory structure by a minimum of 10 feet.

d. Maximum site coverage. The maximum percentage of site area to be occupied in a mobile home park by structures, parking, and driveways shall reflect the base zone requirements identified in tables 2-6 through 2-9.

e. Parking. Each mobile home shall be provided with at least one and no more than two off-street parking spaces, in compliance with Section 9.36.040.

f. 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 these requirements, and shall make the necessary arrangements with the utility companies for the installation of the required facilities.

g. Storage for RVs, boats, etc. Each mobile home park shall be provided at least one storage area for boats, recreational vehicles and extra vehicles, at a minimum ratio of 100 square feet of vehicle storage area per mobile home space. Each storage area shall be completely enclosed with fencing six feet in height, and shall be completely screened from exterior view. 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.

h. Fencing. A solid masonry wall, fence, or other decorative landscape screening of the maximum height allowed by this Land Use Code shall be installed as required by the review authority as part of the Use Permit approval for the mobile home park.

i. Landscaping. Landscaping shall be provided in compliance with Chapter 9.34 (Landscaping).

j. Signs. A mobile home park may be allowed one externally illuminated identification sign not exceeding the multi-family standards as specified in Table 3-10 of Section 9.38.080.A. The sign shall be integrated into the mobile home park landscaping, at a location specified in the Use Permit approval.

k. Skirting. Skirting shall be provided along all sides of each mobile home.

l. Internal streets. Streets within a mobile home park, and all other areas for vehicle circulation or parking shall be at least 24 feet from curb-to-curb, and shall be increased in width by eight feet for curb parking space on each side of the street where curb parking is permitted. All roads and parking spaces shall be permanently paved. All internal streets shall have street signs designed to City standards.

9.42.130 - Multi-Family and Small Lot Single-Family Projects

New or remodeled multi-family projects, and subdivisions of detached single-family homes on parcels of 4,000 square feet or less, 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 or small-lot detached unit may be located in compliance with the following standards, in addition to the requirements of Chapter 9.36 (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. Recreation space. Each multi-family residential project, except duplexes, shall provide permanently maintained outdoor open recreation space for each dwelling unit (private space), and for all residents (common space), in addition to required setback areas, except where the review authority determines that existing public park or other usable public open recreation space is within convenient walking distance, or that the residential units are part of a mixed use project.

1. Area required. Private and common open space shall be provided as required by Table 4-3.

Table 4-3 - Multi-family Project Recreation Space Requirements

Project Size	Minimum Common Recreation Space Required	Minimum Private Recreation Space Required
3 or 4 units	200 sf	150 sf for each unit
5 to 10 units	500 sf	
11 to 30 units	1,000 sf	
31 and more units	2,000 sf	

2. Configuration of recreation space. Required recreation space areas shall be designed and located as follows. Landscaping shall comply with the requirements of Chapter 9.34 (Landscaping Standards).

a. Common recreation space. All required recreation space shall be: easily accessible; continuous, usable site elements; separated from parking areas; safe and secure. Each common recreation space area shall have a minimum dimension of 20 feet by 10 feet.

b. Private recreation space. Private recreation space shall be at the same elevation as, and immediately accessible from within the unit. Each private recreation space area shall have no dimension less than 5 feet.

The review authority may allow required recreation space to be in different locations and/or with different dimensions where it determines that the alternative approach will provide recreation space of equivalent utility and aesthetic quality.

3. Maintenance and control of common recreation space. Required common recreation space shall be controlled and permanently maintained in a common interest development by a Home Owners Association (HOA). Provisions for control and maintenance shall be included in property covenants of all common interest developments.

4. Non-qualifying site features. The following do not comply with the requirements of this Land Use Code for the provision of recreation space.

a. Recreational buildings in a multi-family development that are also not counted as residential floor area in the development.

b. Proposed street rights-of-way or school sites.

c. Public and private vehicle access easements.

d. Accessory buildings (except greenhouses, glass-covered patios, and similar roofed structures, when:

(1) The exterior wall above the foundation is transparent; or

(2) At least 50 percent of the exterior wall area above the foundation is transparent, and 50 percent or more of the roof area is transparent.

e. Open parking areas.

f. Driveways and access-ways for dwellings.

g. Land area utilized for garbage and refuse disposal or other servicing maintenance.

h. Areas under a deck with less than 8 feet of vertical clearance.

F. Outdoor lighting. Outdoor lighting shall be installed and maintained along all vehicular access ways and major walkways, in compliance with 9.30.070 (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, including fluorescent, compact fluorescent, low pressure sodium, high pressure sodium, or other lighting technology that is of equal or greater energy efficacy. 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. Laundry facilities.

1. Rental units. Where multi-family units are to be rented, the project shall be provided common laundry facilities consisting of at least one clothes washer and dryer for each five dwelling units. Washers and dryers may be coin-operated.

2. Ownership units. Where multi-family units are to be individually owned, each unit shall be provided an individual laundry area within the unit or its garage, of sufficient size to accommodate a clothes washer and dryer. If located in the garage for an individual unit, the laundry area shall not encroach into the required parking area.

I. 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.

9.42.140 - Outdoor Retail Displays and Sales

A. Applicability. The provisions of this Section apply to mobile and permanent facilities for outdoor display, sales (e.g., garden nurseries, lumber yards, mobile retail vendors, news and flower stands, and similar uses where merchandise is displayed for sale), and outdoor dining areas, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

B. Mobile retail vendor outdoor displays and sales. Mobile vendor outdoor displays and sales shall include, but are not limited to the following: mobile eating and drinking vendors, mobile prepared food vendors, mobile flower vendors, and mobile merchandise vendors. These and similar activities are not allowed to operate as a business within a public right-of-way unless an Encroachment Permit is obtained.

1. Additional requirements for mobile eating and drinking vendors. Mobile eating and drinking vendors include, but are not limited to sandwich wagons, recreational vehicle cafes, hot dog wagons, ice cream wagons, and similar uses. These activities are allowed subject to the following standards for each vendor:

a. Parking. If located at a site for more than four hours per day, a minimum of one off-street parking space shall be provided.

b. Seating. If located at a site for more than four hours per day, a minimum of 16 outdoor seating spaces with tables shall be provided.

c. Restroom. If located at a site for more than four hours per day, a portable restroom facility shall be provided.

d. Hours of operation. Hours of operation shall be limited from 6 a.m. to 10 p.m. daily, except for the Central Business District.

e. Exceptions. Exceptions to minimum standards shall require a Minor Use Permit.

C. Permanent outdoor displays and sales. The permanent outdoor display and sale of merchandise is allowed subject to the following standards.

1. 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 a Minor Use Permit approval.

2. 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, parking spaces, or pedestrian walkways. A display shall not obstruct intersection visibility or otherwise create hazards for pedestrian or vehicle traffic.

3. The outdoor display and sales area shall be directly related to a business occupying a permanent structure on the subject parcel.

4. The review authority 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.

5. Additional signs, beyond those normally allowed for the subject use, shall not be provided as a result of the outdoor display and sales area.

D. News and flower stands.

1. Location requirements. A news or flower stand shall:

a. Be located parallel and abutting the wall of a structure if located in the downtown area.

b. In the case of a privately owned stand, it shall not be located 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.

c. The activity shall not be located within a public right-of-way unless an Encroachment Permit is obtained.

2. Design and construction requirements.

a. A permanent 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. The news and 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 9.38 (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 9.36.040 for restaurants.

2. An outdoor eating area within the public right-of-way shall require an Encroachment Permit in addition to Minor Use Permit approval, and shall use only City approved furniture and enclosures. In no event shall sidewalk passage be reduced to below ADA standards.

3. Signs shall comply with Chapter 9.38.

F. Produce stands. This Section establishes standards for the development and operation of produce stands, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). Produce stands are also similar in use to that of a Farmers Market.

1. Products. Sales from a produce stand shall be limited to agricultural products such as vegetables, fruits, nuts, firewood, etc.

2. Maximum size. A produce stand shall not exceed 400 square feet in floor area, or dimensions of 20 feet on each side, with a maximum height of 15 feet unless it is located in the Agricultural and Resource Zoning Districts where the maximum floor area can reach 1000 square feet.

3. Access. The location and type of access to a public road from the produce stand site shall require an Encroachment Permit and the approval of the Public Works Director.

9.42.150 - 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 in commercial areas shall be entirely enclosed as approved by the review authority. The enclosure shall have 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 Minor 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 9.34 (Landscaping Standards).

D. Exceptions. Exceptions to minimum standards shall require a Minor Use Permit.

9.42.160 - 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 9.38.080 (Sign Standards by Zone).

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 facility. Where allowed by Table 2-10, 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 other recyclable materials;

   c. Use containers that are constructed with durable waterproof and rustproof materials, secured from unauthorized removal of material, and shall be of a capacity sufficient to accommodate materials collected and the collection schedule, and shall be maintained in a clean and orderly manner;

   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; and

   b. Additional directional signs, consistent with Chapter 9.38 (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 facility. Where allowed by Table 2-10, a large 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, rustproof material(s), 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. Where allowed by Table 2-10, 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;

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; and

7. Operating standards. Dust, fumes, odor, smoke, or vibration, above ambient levels, shall not be detectable on adjoining parcels.

9.42.164 - Formula Restaurants

Where restaurants are allowed by Article 2 (Zoning Districts and Allowable Land Uses), after July 5, 2002, the number of formula restaurants in the City shall be limited to nine establishments. A new formula restaurant shall only be allowed if it replaces an existing formula restaurant in one of the following business districts: Janes Road (one restaurant allowed), Northtown (one restaurant allowed), Uniontown (two restaurants allowed), and Valley West/Giuntoli Lane (five restaurants allowed). Replacement Formula Restaurants are allowed within the business district boundaries as identified Figure 4-3. No other business district shall allow a formula restaurant.

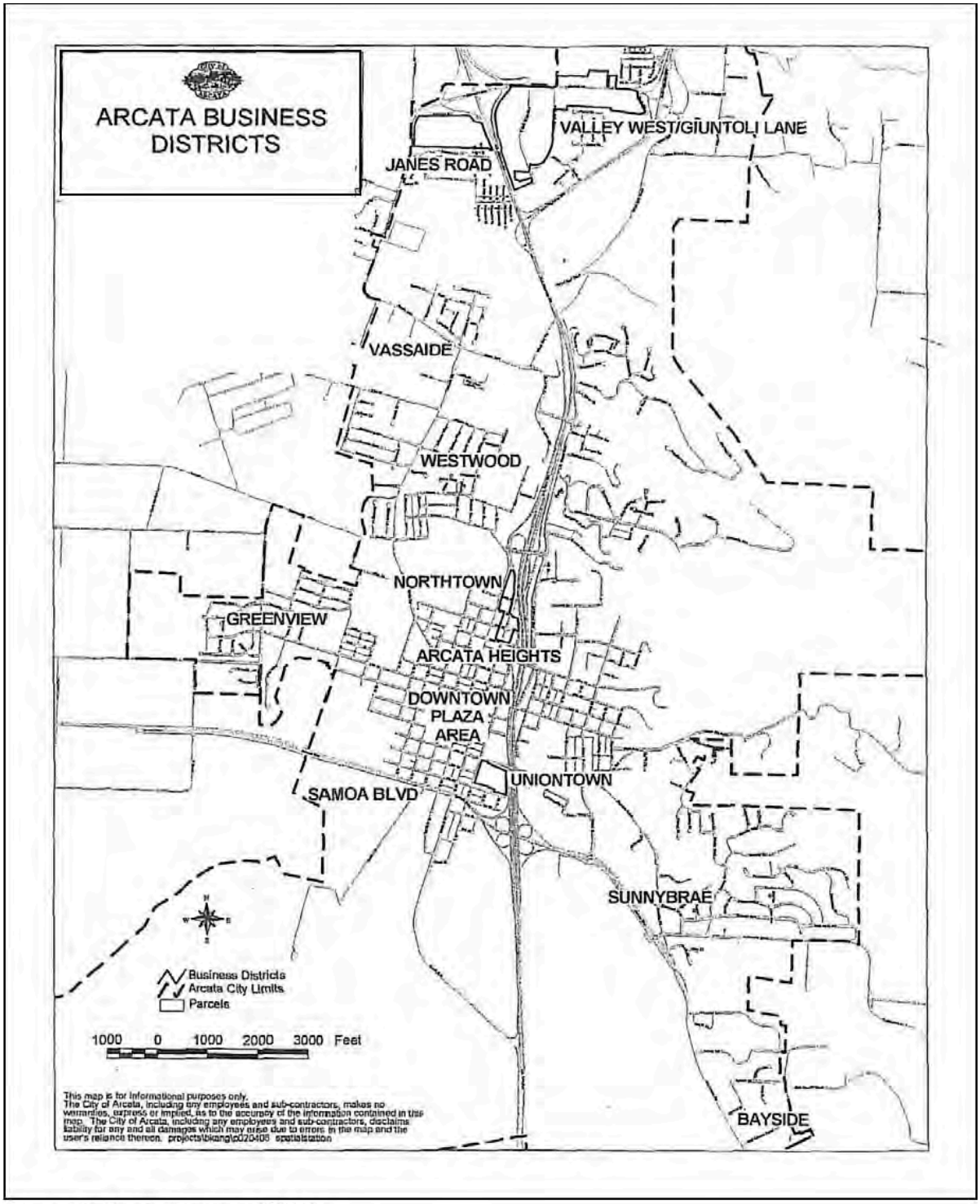

Figure 4-3 - Arcata Business Districts

9.42.170 - Second Units

This Section establishes standards for residential second units, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. Limitation on number of units. No more than one second unit shall be approved on a single parcel.

B. Relationship to primary use.

1. Standards. 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, including roof pitch and exterior materials of the second unit shall be similar in appearance to 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 development 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, but which must maintain the relationship with Subsection B.1 above.

3. Exceptions. Variation from the above standards identified in Subsection B.1 may be approved by the Historic and Design Review Commission (HDRC).

C. Minimum site area. A parcel proposed for a second unit shall be a minimum of 5,000 square feet.

D. Owner Occupancy. The property owner shall occupy either the primary dwelling or the second unit.

E. Development standards. A second unit shall be designed to comply with the following standards:

1. Height limit. The height of a second unit shall be no greater than the height of the primary dwelling unit as measured as the vertical distance from the natural grade to the highest point on the roof on the primary dwelling unit. Exceptions are limited to chimneys.

2. Maximum floor area. The residential floor area of a second unit shall not exceed 50 percent of the residential floor area of the primary dwelling.

F. Exceptions. Exceptions from the above standards in Subsections C, D, and E may be approved with a Minor Use Permit.

G. Off-street parking requirements. A second unit shall require parking consistent with the requirements of Section 9.36.040 (Number of Parking Spaces Required).

9.42.180 - Service Stations

This Section establishes standards for the development and operation of motor vehicle service stations, 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 9.72.040, in addition to the Minor Use 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 9.30.070 (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 new service station site shall not abut a residential zoning district or residential use.

2. Separation between stations. A new 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 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 review authority may grant an exception to this requirement for a service station within a retail site complex if the review authority determines that the exception improves traffic circulation or reduces traffic. Approval of the exception shall also require that the review authority 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 new service station site constructed after the effective date of this Land Use Code 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 dispenser island shall be provided a stacking area that can accommodate a minimum of three waiting vehicles.

2. 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.

3. Drainage. All surface drainage which could potentially be in contact with spilled oil and/or gasoline must be treated by a City approved oil water separator prior to entering the City stormwater system, in compliance with the Stormwater Ordinance. All roof and canopy drainage must be segregated.

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 requirements of Chapter 9.34 (Landscaping Standards).

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 9.30.070 (Outdoor Lighting). Lighting fixtures/lamps shall be the most energy efficient available, including fluorescent, compact fluorescent, low pressure sodium, high pressure sodium, or other lighting technology that is of equal or greater energy efficacy.

6. Signs and banners. Signs, banners, and promotional flags shall comply with Chapter 9.38 (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.

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. Restrooms. Each service station shall maintain one or more restrooms available for use by the general public without charge.

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 dispenser 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.

4. Convenience sales - Parking. Where allowed, the sale of beer and wine, other drinks, food, and/or other merchandise shall be provided off-street parking shall be provided in compliance with Chapter 9.36 (Parking and Loading).

G. Appurtenant uses. The following appurtenant uses are prohibited unless specifically allowed as part of Minor Use Permit approval.

1. Outdoor storage. One or more outdoor storage and display cabinets or enclosures other than the primary structure(s) 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 structure(s) 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, fuel additives, oil, transmission fluid, windshield wipers and fluid, and other similar merchandise. The outdoor storage of tires shall be prohibited.

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 ten days, and shall be stored entirely within an enclosed structure.

3. Rentals. The rental or storage of 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.

4. Prohibited uses. The following uses are prohibited.

a. The rental, sale or storage of garden supplies and tools.

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 fuel for more than twelve months, all fuel dispensers and signs shall be removed from the site and all fuel storage tanks shall be removed or treated in compliance with Federal and State regulations, subject to the approval of the Fire Department. An extension to the twelve month period may be granted by the Zoning Administrator if the owner of the service station can demonstrate that due diligence has been exercised, and through no fault of their own, the owner was unable to meet the timeline requirements of this chapter to resolve any required repairs or reconstruction of the facility.

9.42.190 - Windmills for Electricity Generation

Where allowed by Article 2 (Zoning Districts and Allowable Land Uses), a windmill proposed for the generation of electricity, hereafter referred to as a "windmill," shall comply with the requirements of this Section.

A. Application requirements. The Use Permit application shall include all information and materials required by Section 9.72.080, and the following.

1. Standard drawings and an engineering analysis of the system's tower, showing compliance with the California Building Code (CBC), and certification by a California-licensed professional mechanical, structural, or civil engineer. A "wet stamp" shall be required for all drawings and analysis.

2. Plans and specifications drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the California Electric Code.

3. Evidence that the provider of electric utility service to the site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant intends, and so states in the application, that the system will not be connected to the electricity grid.

4. Evidence that the proposed height of the windmill tower does not exceed the height recommended by the manufacturer or distributor of the system.

B. Limitations on location. No more than one windmill shall be approved on a single parcel closer than 500 feet from another windmill in the residential zoning districts.

C. Windmill design standards.

1. Setback requirements. A windmill shall not be located closer to a property line than the height of the tower.

2. Height limit. A windmill tower shall not exceed a maximum height of 65 feet on a parcel less than five acres in size, or a maximum height of 80 feet on a parcel of five acres or more in size; provided that, in all cases, the system shall comply with all applicable Federal Aviation Administration (FAA) requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports, and the State Aeronautics Act (Part 1 (commencing with Section 21001) of Division 9 of the Public Utilities Code).

3. Windmill turbine. A turbine proposed for the electricity grid shall have been approved by the California Energy Commission (CEC) as qualifying under the Emerging Renewables Fund of the CEC's Renewables Investment Plan, or certified by a national program recognized and approved by the CEC.

D. Noise standards. A windmill shall be designed, installed, and operated so that noise generated by the system shall not exceed the lesser of 60 decibels (dBA), or the maximum noise levels established by Section 9.30.050 (Noise Standards) for the applicable zoning district, as measured at the property line, except during short-term events including utility outages and severe wind storms.

CHAPTER 9.44 -TELECOMMUNICATIONS FACILITIES

Sections:

9.44.010 - Purpose
9.44.020 - Definitions
9.44.030 - Applicability
9.44.040 - Permit Requirements
9.44.050 - Limitations on Location
9.44.060 - Facility Design and Development Standards
9.44.070 - Operation and Maintenance Standards
9.44.080 - Discontinuance and Site Restoration

9.44.010 - Purpose

This Chapter establishes development standards consistent with Federal law to: regulate the placement and design of telecommunications facilities to promote an aesthetic appearance to preserve the historic, cultural, and archaeological values of Arcata, 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; acknowledge and provide the community benefit associated with the provision of advanced communication services within the City; and to implement General Plan Policy PF-5d.

9.44.020 - Definitions

The technical terms and phrases used in this Chapter are defined in Article 10 (Glossary) under "Telecommunications Facilities."

9.44.030 - Applicability

A. Applicability of Chapter. The location, permit requirements, and other provisions of this Chapter shall apply to all telecommunications facilities within the City, except as provided in Subsection B. All telecommunications facilities shall also comply with all applicable requirements of State and Federal law.

B. Exceptions. The following are exempt from the requirements of this Chapter.

1. The replacement or modification of previously permitted facilities or equipment determined by the Director to be of a minor nature, and that do 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.

4. 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; 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.

9.44.040 - Permit Requirements

A. Use Permit required. Use Permit approval is required for all telecommunications facilities subject to this Chapter.

B. Application requirements. In addition to the information required for a Use Permit application by Chapter 9.70 (Permit Application Filing and Initial Processing) the application for a telecommunication facility shall include, but may not be limited to all of the following information and materials.

1. General information.

   a. A notarized statement signed by the applicants that all information included in the submittal is materially accurate, true, complete, and verifiable. Inaccurate, untrue, misleading or false information submitted in pursuit of a Use Permit by the applicants, the provider company, or their agents may be grounds for denial of a Use Permit.

   b. The exact legal name, address or principal place of business, and phone numbers of applicants and any co-applicants, as well as any agents for the applicants or co-applicants. The landowner of the subject property, licensed carriers, and tenants for the facility shall be considered co-applicants.

   c. The name, title, address and phone number of the person to whom correspondence or communication regarding the applicants are to be sent.

d. Original signatures for the applicants and all co-applicants applying for the Use Permit. If the applicants or co-applicants will be represented by an agent, original signature authorizing the agent to represent the applicants and/or co-applicants.

e. Copies of all submittals pertaining to: FCC licensing; environmental impact analysis; FAA notice; aeronautical studies; and all data, assumptions, and calculations relating to service coverage and power levels.

f. Details of proposed method of finance surety.

g. Required plans and engineering plans, prepared, stamped and signed by a professional engineer licensed to practice in California.

2. Siting information. Applicants shall provide a zoning or assessor's map that clearly locates all existing and proposed facilities for their carrier in the City and outside the City within one mile of its corporate limits. Applicants shall also provide a vicinity plan at a scale of one-inch equals 40 feet that shows at a minimum the following (additional materials may be required):

a. Property lines for the site;

b. Property lines of all properties adjacent to the site within 300 feet;

c. Existing tree cover on the site and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source;

d. Outline of all existing buildings, including purpose (e.g. residential buildings, garages, accessory structures, etc.) on the site and all adjacent properties within 1000 feet;

e. The proposed location of the facility, including mounts and equipment shelters;

f. Proposed security-barrier, indicating type and extent as well as point of controlled entry;

g. The location of all roads, public and private, on the subject property and on all adjacent properties within 500 feet including driveways proposed to serve the facility;

h. Distances, at grade, from the proposed facility to each building on the vicinity plan;

i. Contours at each two feet above mean sea level for the site and adjacent properties within 500 feet;

j. All proposed changes to the existing site, including grading, vegetation removal, and temporary or permanent roads and driveways;

k. Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the facility; and

l. Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from the sight lines.

3. Additional visuals. Applicants shall submit sight lines and photographs as follows.

   a. Sight line representations should be drawn from the closest public roads and the closest residential buildings (viewpoint) to the highest point (visible point) of the facility. Each sight line should be depicted in profile, drawn at a scale of one-inch equals forty 40 feet. The profiles should show all intervening trees and buildings. The number and locations of the representations shall be determined by the Director.

   b. Each sight line should be illustrated by one, four-inch by six-inch color photograph of what can currently be seen (also called an existing or before-condition photograph).

   c. Each of the existing-condition photographs should have the proposed facility superimposed on it to show what will be seen from public roads if the proposed facility is built, including antennas, mounts, equipment shelters, cables as well as cable units, and security barriers, if any, for the total height, width and breadth.

4. Cross-sections. Applicants shall submit cross-sections through the site which illustrate the following:

   a. Antennas, mounts and equipment shelters, with total elevation dimensions and average ground level of the highest point;

   b. If the security barrier will block views of the facility, the barrier drawing should be cut away to show the view behind the barrier;

   c. Any existing structures on the site to remain;

   d. Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned;

   e. Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level; and

   f. Construction sequence and routes used to transport materials and equipment to the site.

5. Radio frequency radiation (RFR) information. Applicants shall provide a statement listing the existing and maximum future measurements of RFR from the proposed facility for the following situations.

   a. Existing, or ambient: the measurements of existing RFR.

   b. Existing plus proposed facility: maximum estimate of RFR from the proposed facility plus the existing RFR environment.

   The certification shall be signed by a RF engineer, stating that the RFR measurements are accurate and meet FCC requirements.

6. Operational characteristics.

a. Certification acceptable to the Director that the proposed facility will at all times comply with all applicable health requirements and standards pertaining to electromagnetic and/or radio frequency radiation;

b. 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.

C. 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 may be acted upon by the City as a single application, ensuring feasibility of long range company projections. An application for a Master Use Permit in compliance with this Chapter shall include the following information.

1. Written documentation of any facility sites in the City and in other adjacent cities and unincorporated areas in which the applicant has a legal or equitable interest, whether by ownership, lease, or otherwise.

2. Written documentation for each facility site identified in Subsection C.1 that none of the sites is already providing, or does not have, by adjusting the site, the potential to provide adequate coverage and/or adequate capacity to the City.

3. Written documentation that specifies potential adjustment to the existing facility sites, including changes in antenna type, orientation, gain, height, or power output.

4. Written documentation demonstrating that the applicant has examined all telecommunication facility sites in the City and in the other adjacent cities and unincorporated areas in which the applicants have no legal or equitable interest, whether by ownership, lease, or otherwise, to determine whether those facility sites may be used to provide coverage and/or adequate capacity to the City.

5. Written documentation demonstrating that the applicant has analyzed the feasibility of repeaters in conjunction with all facility sites to provide adequate coverage and/or adequate capacity to the City. Radial plots of all repeaters considered for use in conjunction with these facility sites shall be provided as part of the application.

D. Communications consultant required. At the time of filing a Use Permit application for a telecommunication facility, the applicant shall hire independent consultants whose services shall be paid for by the applicants. These consultants shall each be qualified professionals with a record of service to municipalities in one of the following fields: telecommunications engineering; structural engineering; monitoring of electromagnetic fields; and if determined necessary by the Director, other consultants. The applicants shall grant permission for the City's independent consultants to conduct site visits as the consultants deem necessary.

E. Required findings for approval. The approval of a Use Permit for a telecommunication facility shall require that the review authority first make the following findings, in addition to those required for Use Permit approval by Section 9.72.080 (Use Permit and Minor Use Permit):

1. The telecommunication facility complies with all applicable requirements of this Chapter;

2. The telecommunication facility will not adversely impact the character and aesthetics of any public right-of-way;

3. The proposed location is the most appropriate for the neighborhood;

4. The facility is of the minimum size necessary for the intended use; and

5. The facility will be set back and screened to effectively reduce visual and safety impacts.

9.44.050 - Limitations on Location

A. Zoning district priorities. A telecommunication facility shall not be approved or located within other than the PF (Public Facility) zoning district; except that the review authority may approve a facility within the CG, CC, CV, IL, or IG zoning districts 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 telecommunication facility would provide adequate coverage.

B. Co-location required. A new telecommunication 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 telecommunication facility with non-communications facilities (e.g., light standards, water tanks, and other utility structures) where the review authority determines that this co-location will minimize the overall visual impact.

1. A service provider shall exhaust all reasonable measures to co-locate their telecommunications facilities on existing towers or with or within existing ancillary support equipment facilities before applying for a new telecommunication facility site.

2. Each service provider shall provide the City with responses from contacts with 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 co-location, Use 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. Siting on historically significant structure prohibited. No telecommunication facility shall be sited on a structure that is listed on the National Register of Historic Places or the California Register, identified as an historic structure in a local historic survey or registry or as determined by a qualified architectural historian as having significant historic contribution to the area.

9.44.060 - Facility Design and Development Standards

Each proposed telecommunication facility shall comply with all of the following standards.

A. Facility placement.

1. A telecommunication facility located on the roof of 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.

2. Telecommunication 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.

3. A telecommunication facility shall be at least 1000 feet from any residence, and shall be at least 1,500 feet from any historic district, school, or hospital.

B. Height limitations.

1. All ground mounted telecommunication equipment, antennas, poles, or towers shall be of a minimum functional height.

2. The height of tower located on the ground shall not exceed 10 feet, unless the review authority determines that additional height, up to a maximum of 30 feet, will not create adverse visual or safety impacts.

3. The height of a telecommunication facility located on a structure other than a dedicated support tower shall not exceed 15 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 review authority 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 review authority. 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 review authority 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 telecommunication 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 Subsection 9.44.060.D (Screening). In any zoning district, ancillary power supplies and fuel storage tanks to support backup power supplies shall require Use Permit approval.

9.44.070 - 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 telecommunications 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 telecommunication 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. The review authority may also require a landscape maintenance agreement.

D. Noise. Each telecommunication 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. on weekday nights. 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. 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 also comply with Section 9.30.070 (Outdoor Lighting).

9.44.080 - Discontinuance and Site Restoration

All equipment associated with a telecommunication 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, 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.

ARTICLE 5

Resource Management

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CHAPTER 9.50 - AGRICULTURAL PRESERVATION - RIGHT-TO-FARM

Sections:

9.50.010 - Purpose
9.50.020 - Relationship to Nuisance
9.50.030 - Disclosure Requirement

9.50.010 - Purpose

It is the policy of the City of Arcata to support agricultural uses within and around the City. Urban development adjoining agricultural uses often leads to restrictions on agricultural uses to the detriment of the agricultural uses and the economic viability of agriculture. The purposes of this Chapter are to support any current or future State law to:

A. Preserve and protect agricultural land within the City zoned to allow agriculture;

B. Support and encourage continued agricultural operations in the City; and

C. Disclose to prospective purchasers, residents, and tenants of property adjoining or near agricultural uses of the inherent conflicts associated with the purchase of the residence including, but not limited to, chemicals, dust, light, noise, odors, and traffic that may accompany nearby agricultural uses.

9.50.020 - Relationship to Nuisance

A. No existing or future agricultural use or any of its appurtenances, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, and all applicable City requirements, shall become a nuisance to adjacent land uses, when the action was not a nuisance at the time it began. The provisions of this Chapter shall not apply whenever a nuisance results from the negligent or improper action of any agricultural use or its appurtenances.

B. This Chapter shall not be construed as modifying existing law relative to nuisances, but only to be utilized in the interpretation and enforcement of the provisions of this Land Use Code.

9.50.030 - Disclosure Requirement

A. Disclosure by subdivider or seller. The subdivider or seller of any property located within 1,000 feet of land zoned for agricultural use shall disclose, through a notation on the Final Map, within Conditions, Covenants and Restrictions (CC&Rs), if prepared, and through the recordation of a separate acknowledgment statement, the presence of agricultural and appurtenant uses in the proximity through the following, or similar statement:

> "The property you are purchasing or developing is located within 1000 feet of agricultural lands or uses, and you may be subject to inconvenience or discomfort from the following, or other similar agricultural uses: cultivation and tillage of the soil; burning of agricultural waste products; lawful and proper use of agricultural chemicals including, but not limited to, the application of pesticides and fertilizers; and production, irrigation, pruning, growing, harvesting and processing of any agricultural commodity, including horticulture, timber, apiculture, the raising of livestock, dairying, fish, poultry, and commercial practices performed as incidental to or in conjunction with such agricultural operations, including preparation for market, delivery to storage or market, or to carriers for transportation to market. These operations may generate, among other things, dust, smoke, noise and odor. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a city with a strong rural character and a healthy agricultural sector."

B. Disclosure prior to issuance of a Building Permit. Where a new structure intended for human occupancy is to be located on property which is located within 1,000 feet of land zoned for agricultural use, the owner of the property shall, prior to issuance of a Building Permit, sign and record a statement in a form equivalent to that specified in Subsection A. In lieu of signing the statement required above, the owner may submit evidence that the statement in Subsection A. has been made a part of subdivision documents creating the parcel on which the structure is proposed.

CHAPTER 9.52 - HILLSIDE DEVELOPMENT

Sections:

9.52.010 - Purpose
9.52.020 - Applicability
9.52.030 - Permit Requirements
9.52.040 - Hillside Subdivision Standards
9.52.050 - Site Planning and Development Standards
9.52.060 - Building Design Standards
9.52.070 - Hillside Development Permit

9.52.010 - Purpose

The purposes of this Chapter are to:

A. Preserve the City's environmental and scenic resources by encouraging the retention of natural topographic features and vegetation;

B. Recognize that as the slope of a development site increases so does the potential for environmental degradation including slope failure, and increased storm water runoff that will also increase the potential for erosion, and waterway sedimentation;

C. Encourage appropriate road construction and grading practices in hillside areas;

D. Encourage structures on hillside parcels to be designed with scale, massing, architectural design and detailing appropriate to maintain the visual character of hillsides as natural and open; and

E. Recognize that commercial timber operations are allowed only in the AE, AR, and NR-TP zone districts.

9.52.020 - Applicability

A. Applicability. The requirements and guidelines in this Chapter apply to new construction or remodeling, subdivisions, new land uses, and all other proposed development on a site in the areas subject to hillside development standards as mapped in the General Plan, Figure PS-a, Hazards Map.

B. Limitation on hillside development. No new grading, construction or development shall occur on a slope of more than 25 percent, except that:

1. Each new lot created in areas subject to this Chapter shall contain a contiguous buildable area of at least 4,000 square feet, with a natural slope of 15 percent or less.

2. Each existing, legally created lot which cannot meet the 15 percent slope standard may develop a buildable area of 1,500 square feet if the City determines that there is no alternative building site.

9.52.030 - Permit Requirements

A proposed project that is subject to this Chapter shall be authorized by a Hillside Development Permit in compliance with Section 9.52.070 (Hillside Development Permit), in addition to any other permit required by this Land Use Code.

9.52.040 - Hillside Subdivision Standards

Any proposed subdivision and any existing, legally created, undeveloped lot shall comply with the following standards.

A. Parcel and building site.

1. Each parcel and building site shall comply with the Section 9.52.020.B and shall adhere to the hillside development standards found in Policy PS-3c of the Arcata General Plan: 2020.

2. A minimum of 50 percent of the area of each lot shall be designated as a natural area. All slopes greater than 25 percent shall be included in the natural area. This area shall be identified on each map that accompanies a development proposal. No grading or development shall be permitted in the natural area.

3. Areas with slopes greater than 25 percent shall not be included in the acreage used to calculate allowable density.

B. Roads. Each new road shall follow natural terrain contours to the maximum extent feasible to minimize grading and shall adhere to the hillside development standards found in Policy PS-3c of the Arcata General Plan 2020. Proposed driveways shall comply with the requirements of Section 9.52.050 (Site Planning and Development Standards).

9.52.050 - Site Planning and Development Standards

Each structure shall be located in the most accessible, least visually prominent, most geologically stable, portion or portions of the site. Siting structures in the least prominent locations is especially important on open hillsides where the high visibility of construction as viewed from public access points (e.g., Highway 101, the Arcata Marsh, or the Arcata Plaza) should be minimized by placing structures so that they will be screened by existing vegetation, depressions in topography, or other natural features.

A. Site access. Each driveway shall follow natural terrain contours to minimize grading, and also shall comply with the following standards.

1. Common driveways and easements that serve more than one parcel are encouraged, and may be required in new subdivisions, to reduce the total amount of grading and pavement.

2. Driveway drainage facilities shall be subject to the approval of the City Engineer.

3. A driveway shall not have a grade steeper than five percent within 10 feet of a garage or carport entry or the street. Driveway finished grades shall not exceed an average of 17 percent.

4. Driveways shall be designed to minimize grading and disruption of vegetation.

B. Site coverage. Total site coverage by structures and other non-permeable surfaces shall match the zoning district standards.

C. Setbacks. Building setbacks for any proposed structure shall comply with the requirements of the applicable zoning district, or shall be determined as a Condition of Approval of a Hillside Development Permit. Residential development adjacent to the Community Forest Boundary shall be governed by the following standards:

1. No new lots shall be created which would require a residential unit to be located within 150 feet of the Community Forest Boundary; and

2. For a lot in existence prior to the adoption of this Land Use Code, the construction of any new structure will provide the maximum building setback from the Community Forest Boundary with a reasonable building footprint as determined by the Zoning Administrator.

D. Structure placement. Each proposed structure shall comply with the following standards:

1. Placement of structures. Proposed structures shall comply with the following standards, to maintain the natural appearance of hillsides and ridgelines.

a. Each structure shall be located as follows (see Figures 5-1 and 5-2): No part of a proposed structure shall appear silhouetted against the sky above the nearest ridge or knoll when viewed from the nearest downhill street, except as provided for in Subsection 9.52.050 D(2).

b. Each structure shall be located to take advantage of existing vegetation for screening, and should include the installation of additional native plant materials to augment existing vegetation.

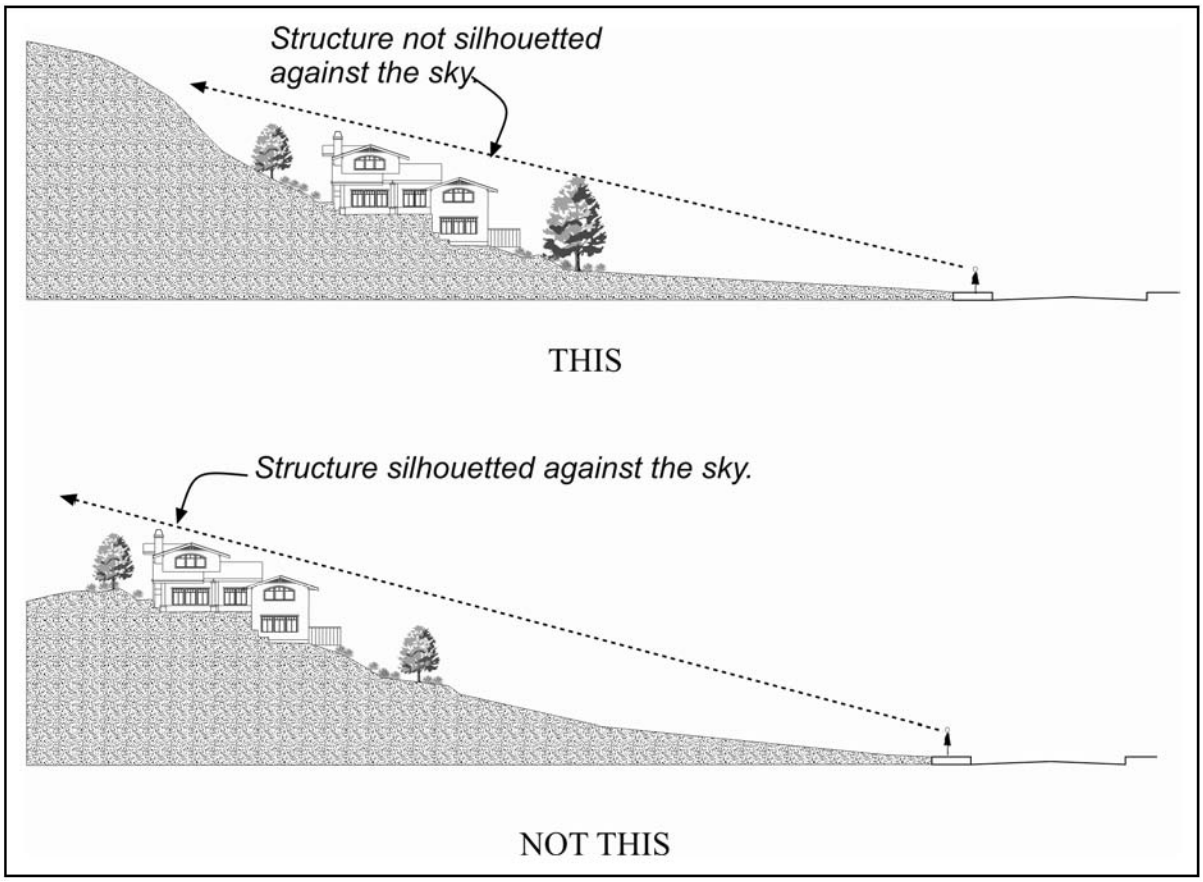

Figure 5-1 - Silhouetted Structure

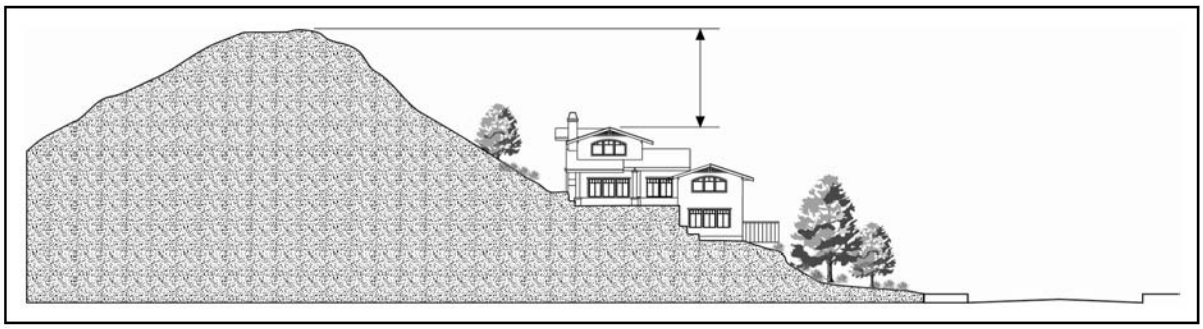

Figure 5-2 - Location of Structure Below Ridgeline

2. **Height limit above ridgeline.** Where the City determines that a legal lot existing prior to the effective date of this Section contains no feasible building site other than where a structure will extend above the ridgeline, proposed structures shall not exceed a height of 16 feet above the highest point on the ridgeline or hilltop within 100 feet of the proposed structure. See Figure 5-3.

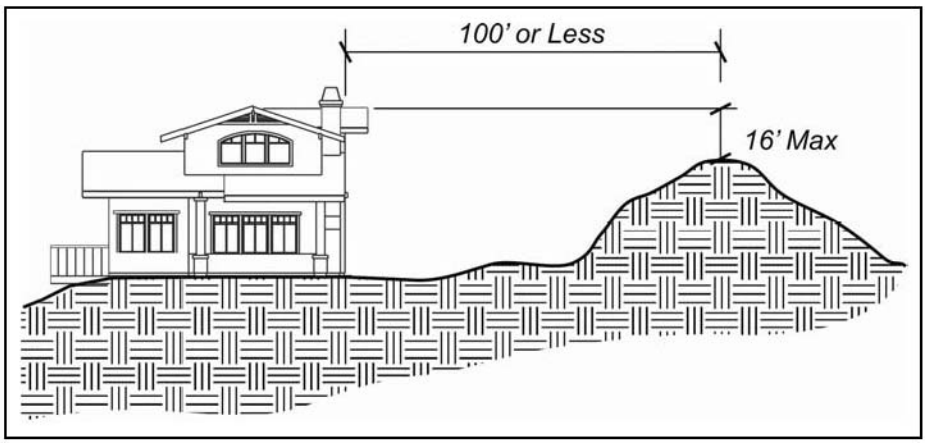

Figure 5-3 - Highest Point Within 100 Feet of Structure

E. **View protection.** A proposed structure or addition to an existing structure shall be designed and located so that it avoids blocking views from other properties to the maximum extent feasible, as follows.

1. New structures and tall landscaping shall not be placed directly in the view of the primary living areas on a neighboring parcel unless no other location is feasible. See Figure 5-4.

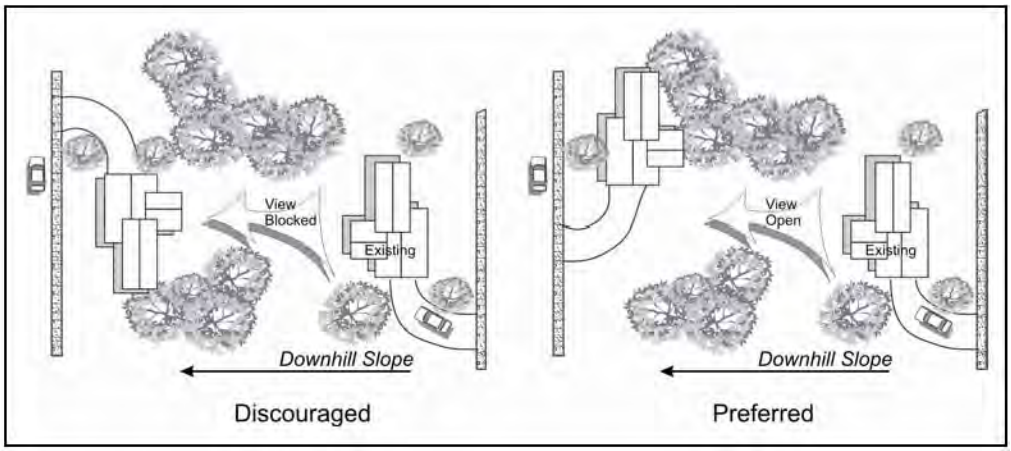

Figure 5-4 - View Protection

2. Mechanical equipment may be placed on rooftops or below a deck only if the equipment is not visible from off the site, except for unobtrusive solar collectors that are compatible with the roof line and architecturally integrated with the structure. Equipment shall also comply with the height limits in Chapter 9.44, except that satellite dishes shall be limited to 3 feet in height and television antennas to 7 feet in height for hillside developments.

3. Story poles shall be placed prior to any new construction and prior to any notification requirements.

F. Exterior lighting. Exterior lighting shall be properly shielded to avoid glare and the spill of light to surrounding areas. Low-level lighting and the use of multiple low profile fixtures is encouraged, as opposed to the use of fewer, but taller fixtures.

G. Other Standards. Site planning and development for hillside areas shall also cross-reference with chapter 9.58 (Tree Preservation and Hazardous Tree Removal).

9.52.060 - Building Design Standards

Building and site design shall generally utilize varying setbacks and structure heights, split-level foundations, and low retaining walls to blend structures into the terrain.

A. Floor area ratio. The gross floor area ratio (FAR) of all structures on a parcel in the RVL or RL zone district shall comply with the requirements of the applicable zoning district, or shall be determined as a condition of approval of a Hillside Development Permit.

B. Windows - Infill lots. Windows, balconies, and outdoor living areas generally shall be located to protect the privacy of adjacent homes and yards.

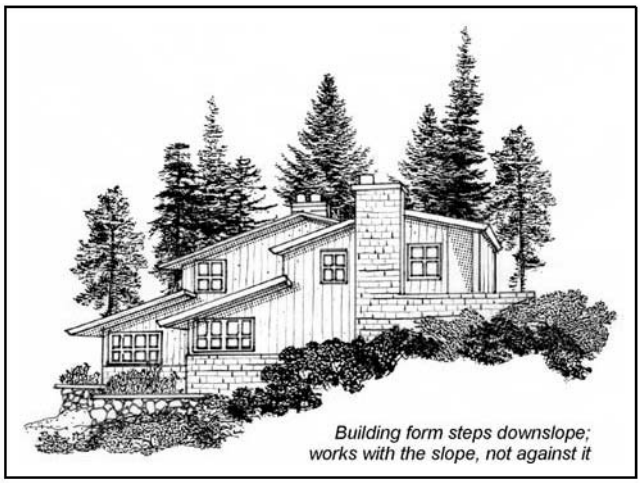

Figure 5-5 - Design Sensitive to Terrain (an example of building form, not intended to show preferred architectural style)

C. Exterior wall surfaces. The apparent size of exterior wall surfaces visible from off the site shall be minimized through the use of single story elements, setbacks, overhangs, roof pitches, landscaping, and/or other means of horizontal and vertical articulation to create changing shadow lines and break up massive forms.

D. Colors and materials. A mixture of materials and color shall be used to blend structures with the natural appearance of the hillside.

E. Roofs. Roof pitches shall generally be placed to follow the angle of the slope; but with variations to avoid a monotonous appearance.

F. Support structures. Support structures (for example, columns, pilings, etc.) below the lowest floor on the downhill side of a house, shall be enclosed unless visible structural members are an integral feature of the architectural design. Support structure wall surfaces shall not exceed six feet in height.

G. Landscaping. See Chapter 9.34 (Landscaping Standards).

9.52.070 - Hillside Development Permit

A. Purpose. The Hillside Development Permit provides a review process for proposed development on hillside parcels, to ensure that a proposed project minimizes its visual and environmental impact. A Hillside Development Permit is conducted similar to that of a Minor Use Permit.

B. Applicability. A Hillside Development Permit is required to authorize any proposed development that is subject to the requirements of this Chapter. Per Subsection 9.24.060 A.1 of this Land Use Code, development and grading on slopes greater than 15 percent in the Residential - Very Low (RVL) zoning district may be allowed only with Hillside Development Permit approval.

C. Application filing and processing. An application for a Hillside Development Permit shall be filed and processed in compliance with Chapter 9.70 (Permit Application Filing and Processing). A Hillside Development Permit application shall include all information and materials required by Section 9.70.030 (Application Preparation and Filing), and the following additional information.

1. Site topography. A topographic map covering the entire site, and areas on surrounding parcels within 50 feet of the site boundary. The map shall be prepared with a contour interval of two feet, and shall include:

   a. The proposed building site;

   b. Slopes less than or equal to 10 percent;

   c. Slopes greater than 10 percent and less than 15 percent;

   d. Slopes greater than 15 percent and less than 20 percent;

   e. Slopes greater than 20 percent and less than 25 percent; and

   f. Slopes greater than 25 percent.

2. Geotechnical report. A preliminary geotechnical report that identifies and proposes mitigation measures for any soils or geological problems that may affect site stability or structural integrity. Depending upon the site characteristics and project design, a final geotechnical report may also be required.

3. Constraints analysis. For properties determined by the City to potentially have sensitive environmental resources including endangered plants or animals or a wildlife corridor, a qualified professional approved by the City shall prepare a site constraints analysis. The report shall include proposed mitigation measures to effectively protect identified important biological features.

D. Project review and notice. A Hillside Development Permit shall be reviewed, have public notice provided, and be decided in the same manner as a Minor Use Permit in compliance with Section 9.72.080 (Use Permit and Minor Use Permit).

E. Required findings. The City may approve, conditionally approve, or disapprove a Hillside Development Permit application, and shall record the decision and the findings upon which the decision is based. The City may approve a Hillside Development Permit only after first finding all of the following:

1. The proposed project complies with the requirements of this Chapter and all other applicable provisions of this Land Use Code;

2. The proposed project is consistent with the General Plan and any applicable specific plan;

3. The establishment, maintenance, or operation of the use will not be detrimental to the public health, safety, or general welfare;

4. The design, location, and size of proposed structures will be compatible with the existing and future land uses in the vicinity, in terms of aesthetics, character, scale, and view protection; and

5. The placement of proposed structures on the site avoids slopes over 15 percent to the maximum extent feasible.

F. Exceptions to standards. The review authority may grant an exception to the standards of this Chapter as part of Hillside Development Permit approval only where it first finds that:

1. The exception is either necessary to allow a house with floor area of at least 1500 square feet on a site with excessive slope, Community Forest Boundary setback constraints, or other environmental constraints; or

2. The exception will result in less visual impact than would development in compliance with the standard being adjusted.

G. Conditions of approval. In approving a Hillside Development Permit, the City may impose any conditions it deems reasonable and necessary to ensure that the approval will comply with the findings required by Subsection E.

H. Post approval procedures. The procedures and requirements in Chapter 9.79 (Permit Implementation, Time Limits, and Extensions), and those related to appeals in Chapter 9.76 (Appeals), shall apply following the decision on a Hillside Development Permit.

CHAPTER 9.53 - HISTORICAL RESOURCE PRESERVATION

Sections:

9.53.010 - Purpose
9.53.020 - Applicability
9.53.030 - Review Authority
9.53.040 - Historical Resources Eligibility, Listing and Management
9.53.050 - Alteration of Historic Structures, Districts and Neighborhoods
9.53.060 - Demolition or Removal
9.53.070 - Rehabilitation Incentives
9.53.080 - Duty to Maintain and Repair
9.53.090 - Unsafe or Dangerous Condition
9.53.100 - Inadvertent Archaeological Discoveries

9.53.010 - Purpose

The provisions of this Chapter are intended to:

A. Protect and Preserve Historical Resources listed on or eligible for listing on the California Register of Historical Resources, including all manner of properties: buildings, structures, sites (prehistoric, historic, traditional ethnic and Native American), objects, districts, and cultural landscapes.

B. Implement the process of designation and preservation of property within the :HL combining zone (Section 9.28.040) by protecting sites and structures identified by the City as culturally, architecturally, and/or historically significant, that contribute to Arcata's historical character and identity, and that should be preserved and/or restored.

C. Prevent the demolition of any existing building or portion of a building without first evaluating whether it contributes significantly to the historical or architectural character of the City or neighborhood, and to ensure consideration of the potential for preservation of buildings found to contribute significantly to that character, in compliance with General Plan Policy H-5a. Identify and encourage the retention of structures that could qualify as historical resources but are not currently designated.

D. Implement the California State Historic Building Code (SHBC) for qualified historical buildings.

E. Promote the stabilization of neighborhoods and areas of the City, promote the increase in economic and financial benefits to the City and its inhabitants, and the growth of tourist trade and interest.

F. Ensure development that respects, complements and enhances historic architectural styles, maintains the scale and character, and thereby stabilizes neighborhoods, districts, and areas of cultural importance. Protect and preserve the Arcata Plaza and the older structures that border the adjacent streets that help define the Plaza's character. Assure that new construction, modifications or alterations of noteworthy structures, and significant changes to other structures are harmonious with the existing character of Neighborhood Conservation Areas (NCA).

G. Conserve valuable building materials, historic fabric and energy resources by promoting preservation and adaptive use of historical resources.

H. Promote historical and architectural reviews by the Historic and Design Review Commission on projects affecting historical resources.

9.53.020 - Applicability

This section identifies the various projects that may be subject to historic reviews in addition to all of the other planning permit or approval requirements of this Land Use Code and the Municipal Code.

A. Affected activities.

1. Period of Significance. Any historical resource that is at least 50 years old shall be subject to the requirements of this chapter.

2. Construction or alteration within the :HL combining zone. No person shall alter the exterior of, construct, or construct improvements to, relocate structures or demolish any structures that are designated within a :HL combining zone (Section 9.28.040), except in compliance with this Chapter.

3. Noteworthy Structures. Structures that could qualify as historical resources shall be identified and processed as outlined in the Arcata General Plan: 2020 Policies H-2a through H-2f.

4. Arcata Plaza Area Historic District. The Arcata Plaza Historic District, as identified in Figure HP-a from the Arcata General Plan: 2020, shall be protected and preserved as outlined in General Plan Policies H-3a through H-3g.

5. Neighborhood Conservation Areas. No person shall construct, modify or relocate any historic structure within a Neighborhood Conservation Area except in compliance with this chapter.

6. Demolition of any structure in the City. No person shall demolish any structure within the City, except in compliance with this Chapter.

7. Ground Disturbing Projects. All ground disturbing projects including those by the City will be subject to review in compliance with this chapter.

8. Adoption of or amendments to the General Plan or to specific plans, and designation of Open Space. In compliance with Senate Bill 18 (SB18) of 2004, such actions shall involve consultations with pertinent Tribal Governments.

B. Relationship to CEQA. Decisions by the City in compliance with this Chapter are "discretionary" and relate to "discretionary projects" as these terms are used in the California Environmental Quality Act (CEQA). See Section 9.78 (Environmental Impact Assessment) for a listing of "ministerial" projects that are statutorily exempt from CEQA review. CEQA requires analysis by the City as the lead agency under CEQA to determine if a proposed project will cause significant impacts to historical resources including archaeological and Native American Traditional Cultural Places.

9.53.030 - Review Authority

This Section assigns responsibilities for review, recommendations, and decisions on the approvals required by this Chapter to the following bodies, in addition to the responsibilities of the Planning Commission and Council.

A. Historic and Design Review Commission. The Historic and Design Review Commission (HDRC), as established by the Council for the purposes of this Chapter, shall conduct historic reviews; review and make recommendations on historical resource designations and historical resource reports; and implement Policy H1-I (Historical Landmarks Commission) of General Plan: 2020.

Duties of the HDRC shall include but not be limited to:

1. Recommendations for designation of historical resources, and conducting or facilitating historical resource inventories and surveys.

2. Review of demolition applications.

3. Review of any changes to a :HL designated historical resource including:

   a. Any exterior alterations including changes in materials.

   b. Interior alterations that would affect the exterior appearance.

   c. Any addition to a :HL designated structure.

   d. Construction of a new structure on a :HL designated site.

4. Review of all exterior alterations that require building permits to Noteworthy Structures, and possible review of buildings constructed within the Period of Significance including changes in types of materials and additions.

5. Review of all development, exterior alterations, and additions to structures located within the Plaza Historic District.

6. Review of all development, exterior alterations, and additions to structures proposed within a NCA to determine that the design will be compatible with and does not destroy the historical or architectural character of the property and the surrounding NCA.

7. Develop historic preservation design guidelines.

B. Historical Sites Society. The Historical Sites Society of Arcata (HSSA) is hereby recognized as a non-profit membership organization interested in historic preservation and local history.

C. North Coastal Information Center (NCIC). The NCIC of the California Historical Resources Information System and the City of Arcata will enter into a Memorandum of Agreement (MOA) no later than six months from the finalization of this land use code. The duties of the NCIC and the City will be established in the MOA and may include:

1. Providing pertinent records of recorded historical resources on file to the City.

2. Drafting and providing pertinent, current sensitivity historical resource base maps to the City.

3. Expediting NCIC record searches for City ground disturbing projects and activities that have the potential to cause significant impacts to historical resources.

4. Providing the NCIC pertinent data and surveys from the City.

D. Native American Tribal Governments. Within six months of the finalization of this land use code, the City will enter into agreements with, at a minimum, the Wiyot Tribe and the Blue Lake Rancheria for consultations. The duties of the Native American Tribal Governments will be established in the MOA and may include:

1. Review of, adoption of, or amendments to the General Plan and to Specific Plans, and designation of open space which contains Native American traditional cultural places.

2. Review of the MOA between the City and the NCIC.

3. Review of City projects and discretionary projects within the City that have the potential to cause significant impacts to historical resources.

4. Review of the preservation of, or the mitigation of impacts to, places, features and objects described in Sections 5097.9 and 5097.995 of the Public Resources Code (cultural places).

5. Establishing a protocol for notification of post-review of Native American discoveries per Subsection 9.53.100.C.

E. City of Arcata, Department of Community Development.

1. The City shall assign the responsibility of historical resources review in compliance with this chapter to the Department of Community Development.

2. The City shall obtain and update every six months, listings within the City on the Sacred Lands Inventory maintained by the State of California Native American Heritage Commission.

F. Appeals. The decisions of the HDRC shall be appealable to the Planning Commission and/or Council in accordance with Section 9.76 (Appeals).

9.53.040 - Historical Resources Eligibility, Listing and Management

A. Purpose and applicability. The Council shall have the authority to approve the designation of buildings, structures, sites (prehistoric, historic, traditional ethnic and Native American), objects, districts, and cultural landscapes as eligible for listing at the local, State or National level.

B. Procedure for designation of a Historic Landmark, Historic District, Cultural Landscape or Neighborhood Conservation Area. The application for the designation of a district, site, area, or structure may be initiated by the owner, HSSA, Council, Planning Commission or HDRC. If initiated by the HSSA or the City, the owner shall be notified and will be able to contest the process.

1. Significance Criteria for listing. In order to be eligible for listing, a district, site, area or structure should retain historical integrity and meet one or more of the following criteria:

   a. The building, site or area is a significant representative of a distinct architectural period, type, style, or way of life.

   b. The building, site or area is at least 50 years old, or in rare cases has achieved architectural or cultural significance in less than 50 years.

   c. The building, site or area is connected with a person or event important to local, state or national history.

   d. The architect or builder is famous or well-recognized.

   e. The building's style, construction method, materials, or finishes are unusual or significant.

   f. The building contains original materials or craftsmanship of high or unusual value.

   g. The building or site's unique location or singular physical characteristic(s) represent an established and familiar visual feature or landmark of a neighborhood, community, or the City.

2. Referral. The City shall refer a proposed :HL combining zone, district, Neighborhood Conservation Area, or cultural landscape designation for review and comment to the HSSA.

3. Notice and hearing. Public notice shall be provided, and public hearings on a proposed rezoning to designate a :HL combining zone, historic district, Neighborhood Conservation Area, or cultural landscape shall be conducted by the HDRC, Planning Commission, and Council in compliance with Chapter 9.92 Amendments and 9.74 Public Hearings. In addition, notice of the hearings shall be provided to the HSSA, property owners, and adjacent property owners.

4. Notice of designation. When a historical resource has been designated by the Council, the City Clerk shall promptly notify the owners of the affected property and record notification of the designation with the County Recorder's office in compliance with State law, per Public Resource Code 5029(b).

5. Content of ordinance. Each designating ordinance shall include:

   a. A description of the characteristics of the historical resource that justify the designation as identified in Section 9.53.040.B.1, a list of any particular features that should be preserved or restored, and the location and boundaries of the resource site;

   b. In the case of the application of the :HL combining zone to multiple sites, the designating ordinance shall specify which structures within the combining zone are to be protected by the designation; and

   c. The designating ordinance may also require the review of proposed changes in major architectural features of a publicly owned historical resource.

6. Pending Applications. No application for a permit to construct, alter, demolish, or relocate a structure that is proposed for historical resource designation, filed after the designation process has been initiated in compliance with Section 9.53.040.B, shall be approved without compliance with this Chapter while the proceedings are pending.

7. Removal of designation. The Council may amend or rescind the application of the :HL combining zone to property only through rezoning in compliance with Chapter 9.92 (Amendments).

C. Procedure for designation of a Noteworthy Structure. HDRC shall recommend to the Council by resolution the inclusion of specified structures to the City's "Noteworthy Structures" list, to encourage their retention. Noteworthy Structures are those that may be eligible for Historic Landmark designation and may not have complete documentation as to their historical or architectural merit. Owners of properties listed as having Noteworthy Structures are encouraged to apply for designation within the :HL combining zone.

1. Criteria for listing. In order to be eligible for listing, a structure should have at least one of the following attributes:

   a. Significant representative of a particular architectural style;

   b. Significant representative of a period in the City's historical development;

   c. Associated with the social history of the City;

   d. Of unusual or special design character, as determined by the HDRC; or

   e. Contributing structure to a Neighborhood Conservation Area.

2. Notification. The HDRC shall notify the owners of property being considered for placement on the list, and shall provide notice and conduct a public hearing in compliance with Chapter 9.74 (Public Hearings) prior to listing a structure, so that the owners shall be given the opportunity to contest and appeal the proposed listing.

3. Effect of listing. HDRC approval shall be required for any exterior alteration of a Noteworthy Structure, when or if alterations require a Building Permit, including changes in types of materials and additions. Rehabilitation incentives for Noteworthy Structures are listed in Section 9.53.070.C.1. No application for a permit to construct, alter, demolish or relocate a structure that is proposed for Noteworthy Structure designation, filed after the listing process has been initiated in compliance with Section 9.53.040.C, shall be approved without compliance with this Chapter while proceedings are pending.

4. Removal from list. The HDRC may recommend to the Council to remove a structure from the City's Noteworthy Structures List through the same process as described by this Section for including a structure on the list. The property owner may also initiate this process through the HDRC.

D. Procedure for the identification, recordation, evaluation and management of an archaeological site or Native American Traditional Cultural Property (TCP).

1. Screening Process (to determine if a focused study will be required): The City of Arcata will screen discretionary project applications (per CEQA) and those actions or projects proposed by the City to determine if the project may have a significant impact on an archaeological site(s) and/or Native American TCP(s) that qualify for inclusion, or are listed on the California Register of Historical Resources. Because the inventory of these types of historical properties is incomplete, the City shall take into consideration the comments and recommendations from knowledgeable information sources to determine (1) if a project falls within a sensitive location, and (2) a cultural resources study will be required for CEQA review and/or project planning. The screening process shall involve the following information sources:

a. North Coastal Information Center (NCIC): Recommendations from the NCIC based on project specific record searches conducted under a Memorandum of Agreement (MOA) between NCIC and the City;

b. Tribal Review: Comments and recommendations from culturally affiliated Native American Tribes, including but not necessarily limited to, the Wiyot Tribe and the Blue Lake Rancheria (the Tribal Historic Preservation Officer (THPO) for each Tribe will have the opportunity for review and comment on proposed projects via circulation of the CEQA Checklist distributed to agencies);

c. Native American Heritage Commission (NAHC): Report of a Native American culturally sensitive location by the NAHC based on its confidential Sacred Lands File records;

d. Sensitivity Maps: Archaeological and/or Native American culturally sensitive locations compiled for the City by NCIC and/or other reputable sources; and

e. Historic and Design Review Commission (HDRC): Comments received from HDRC member(s).

2. Cultural Resource Study Phases Under CEQA. If project screening concludes that the project location is sensitive for potentially significant archaeological sites and/or Native American TCP's and the project has potential to cause significant impacts to historical resources, then the City shall require the applicant to retain a qualified professional to conduct one or more phased studies as follows:

   a. Phase I - Identify Cultural Resources. This phase generally involves four steps as follows:

      (1) A formal records search at the NCIC and background research about the area of study (e.g., ethnography, land-use history);

      (2) An archaeological field survey guided by a research design;

      (3) Consultations with knowledgeable persons having heritage ties to the cultural resources, including the updated list of Native American tribes and organizations recommended by the NAHC; and

      (4) A written report that meets professional standards of the California Office of Historic Preservation.

   b. Phase II - Evaluate the Significance of Cultural Resources. If Cultural Resources are identified in Phase I, only impacts to significant cultural resources determined eligible for inclusion on the California Register of Historical Resources (or eligible for or listed in the National Register of Historic Places) will be considered under the CEQA environmental review process. For a cultural resource (i.e., building, site, structure, object, or district) to qualify for the California Register, it must have integrity and meet one or more of the following criteria:

      (1) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;

      (2) Is associated with the lives of persons important in our past;

      (3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or

      (4) Has yielded, or may be likely to yield, information important in prehistory or history.

c. Phase III - Management of Archaeological Resources and Native American Traditional Cultural Places. If the results of the Phase I and II research show that the project area contains a significant cultural resource and it is determined by the City that the project will cause damage to such a resource, any number of the following may be recommended or required by the City, in conjunction with consultation with tribal governments and possibly with the California Office of Historic Preservation:

(1) Modification of the project to avoid impacts to the cultural resources.

(2) Development of easements or other deed restrictions.

(3) After appropriate archaeological testing, capping or covering the cultural resources with a soil layer before construction.

(4) Designation of Open Space to incorporate cultural resources.

(5) Mitigation of adverse impacts through archaeological excavations that meet professional standards to salvage data that would otherwise be lost during construction activities.

(6) Professional monitors during construction activities.

3. Confidentiality. Certain archaeological site information, including specific site locations, is considered confidential information excluded from public disclosure. Access to this information is specified in Appendix 6, Record Management and Access Policy Historical Resources Records, of the Information Procedural Manual of the California Historic Resources Information System.

9.53.050 - Alteration of Historic Structures, Districts and Neighborhoods

A. Purpose. The requirements of this Section are intended to protect historical resources including but not limited to buildings constructed within the Period of Significance, Historic Landmarks, Noteworthy Structures, Historic Districts, or Neighborhood Conservation Areas from unnecessary and/or inappropriate alterations, including reconstruction, new construction, additions, repairs, restoration, rehabilitation, or replacement not in compliance with the Secretary of the Interior's Standards. General Plan: 2020 Policies H-1e, H-1f, H-2d, H-2e, H-3d, H-3e, H4c, and H-4e shall guide proposed alterations where applicable.

B. Applicability.

1. Activities requiring review by HDRC. The following activities will require review by HDRC:

a. The exterior alteration of any structure within the :HL combining zone, Neighborhood Conservation Area, or Historic District, and any Noteworthy Structure, building constructed within the Period of Significance, or other historical resources whether previously identified or not as per CEQA (Section 15064.5 (a)(4) requiring a building permit or other discretionary permit.

b. Construction of a new building on a parcel with a designated Historic Landmark, Noteworthy Structure, building or other historical resource that dates within the Period of Significance, or located in a Neighborhood Conservation Area and/or Historic District.

2. Relationship to other City approvals. HDRC approval shall be required in addition to any other permits required by this Land Use Code, and shall accompany any permit or any work otherwise altering the architectural features or appearance of the historical resource.

C. Review authority and CEQA. Alterations shall be reviewed, and approved or disapproved by the HDRC in compliance with CEQA, per Sections 15064.5(a)(4) or Section 15331.

D. Notification of the Historical Sites Society of Arcata. The City shall notify the Historical Sites Society of Arcata of all HDRC meetings considering alterations.

E. Application Requirements and Procedures. An application for HDRC review shall be filed with the Department. The application shall include the information and materials required by Community Development Department (CDD) handouts. Once CDD determines that the application is complete and there is a project involving resources as identified in Subsection 9.53.050.B.1.a. above, the CDD shall request that the HDRC examine the application and conduct a historic review of the property.

F. Project Review and decision. A HDRC review shall be completed and acted upon in the same manner as specified by Section 9.72.040 (Design Review).

1. Standards for review. In evaluating alteration applications, the HDRC shall consider the applicable eligibility criteria in Section 9.72.040, as well as any features to be preserved or other conditions specified in a consultant's historical resources report and/or recommendations from the HSSA. Proposed solar heating and cooling devices, energy collecting devices, windmills, or other similar structures shall be subject to Design Review guidelines.

2. Required findings. The approval of an application to alter buildings constructed within the Period of Significance, Historic Landmarks, Noteworthy Structures, Historic Districts, or Neighborhood Conservation Areas shall require that the HDRC first find that all development and exterior alterations maintain the historical integrity of the resource, and that the change is compatible with and does not destroy the historical or architectural character of the property and the immediate neighborhood.

3. Substantial hardship. The HDRC may approve an application for an alteration that may have a negative impact to a resource if an owner can present the following facts to the HDRC:

a. That failure to approve an application will result in immediate and substantial hardship because of conditions peculiar to the historical resource;

b. That the conditions have not been created by an act of the owner; and

c. That damage to the owner of the property is unreasonable in comparison to the benefit conferred to the community.

In the approval process for an alteration based on a substantial hardship, the HDRC shall not consider personal, family, or financial difficulties, loss of reasonable prospective profits, and neighboring violations as justifiable hardships.

9.53.060 - Demolition or Removal

Any demolition or removal of a structure within the City shall first require HDRC to review a demolition or moving permit, as applicable, and in compliance with the requirements of this Section and CEQA.

A. Notification of application. When an application is filed for a demolition or moving permit, the Director shall notify the HDRC at their next regularly scheduled meeting, and by mail to all property owners within a 300-foot radius (500-foot radius for projects not subject to CEQA exemptions), and to the Historical Sites Society of Arcata.

B. Required delay of action. The demolition or removal of a structure designated with the :HL is prohibited during the 180 days following the date that an application for demolition or moving is approved by the HDRC, unless the delay time period is waived by the HDRC in compliance with Subsection B.2. The purpose of this automatic delay is to provide sufficient time for steps necessary to preserve the structure.

1. Extension of time period. The Council may require that the delay period for demolition or removal for a structure designated :HL be extended for up to an additional 180 days after first finding that it is extremely probable that, within the additional time period:

   a. Satisfactory arrangements can be made to relocate the structure to an acceptable site, or

   b. A qualified public or private buyer will be found to purchase the structure.

   The Council shall take action to extend the delay period at a public hearing, no later than 30 days prior to the expiration of the original 180 day time period. The total delay period shall be no more than 12 months from the date the application for a demolition or moving permit for a structure designated :HL is filed with the Department.

2. Waiver of time period. The owner of a designated Historic Landmark may request that the HDRC issue a waiver of any or all of the time period delaying demolition or removal. The HDRC may grant a waiver only after first finding that:

   a. Only in rare cases, satisfactory arrangements have been made to relocate the structure to an acceptable site after it has gone through the permitting process for a demolition or removal;

   b. The structure has been substantially destroyed by fire, wind, flood, earthquake, or other calamity as identified through Section 9.72.050 (Emergency Permit) so that it is of no further historic or architectural value to the community;

   c. The demolition or removal is of an outbuilding or other structure that does not contribute to the historic resource or;

   d. The action is the demolition of a portion of the structure that does not contribute to the historic resource.

C. Findings for Demolition. Prior to its decision, the HDRC shall consider the recommendations of the Historical Sites Society of Arcata or its designated representative. The applicant shall be required to submit a demolition plan showing those portions to be demolished. The following findings shall be required to approve the demolition permit:

1. The building does not contribute to the historical or architectural character of the neighborhood or the City.

2. Although the building does have historical or architectural merit, it:

   a. Has sustained substantial damage to key structural components, and

   b. There are no feasible alternatives to demolition of the building that will not cause unusual and extreme economic hardship.

D. Economic Evidence. In order to determine if unusual and extreme economic hardship exists, the HDRC shall evaluate such financial information as set below, which shall be submitted in any application to demolish a structure that dates within the Period of Significance:

1. For all property:

   a. The amount paid for the property:

   b. The date of purchase, the party from whom purchased, and a description of the business or family relationship, if any, between the owner and the person from whom the property was purchased;

   c. The cost of any improvements since purchase by the applicant and date incurred;

   d. The assessed value of the land, and improvements thereon, according to the most recent County assessments;

   e. Real estate taxes for the previous two years;

   f. Annual debt service, if any, for the previous two years;

   g. All appraisals obtained within the previous five years by the owner or applicant in connection with his or her purchase, financing or ownership of the property;

   h. Any listing of the property for sale or rent, price asked and offers received, if any;

   I. Any consideration by the owner for profitable and adaptive uses for the property, including renovation studies, plans, and bids, if any; and

2. For income producing property:

   a. Annual gross income from the property for the previous four years;

   b. Record of itemized operating and maintenance expenses for the previous four years;

   c. Annual cash flow for the previous four years.

9.53.070 - Rehabilitation Incentives

A. Purpose. The rehabilitation incentives provided by this Section are intended to encourage the maintenance, preservation, and rehabilitation of designated Historic Landmarks and Noteworthy Structures in the City.

B. Applicability. Upon the rezoning of a structure or site to the :HL combining zone, or listing as a Noteworthy Structure, the property owner shall be eligible for the incentives identified in Section 9.53.070.C.

C. Types of incentives allowed.

1. General Incentives. The following incentives, include but not limited to, shall be eligible for each site and structure designated within the :HL combining zone and for Noteworthy Structures.

   a. Exemption from the requirements of this Land Use Code to provide any additional off-street parking, except for structural additions of 200 square feet or larger.

   b. Exemption, for existing nonconforming uses, from the limitations of Chapter 9.90 (Nonconforming Uses, Structures, and Parcels) pertaining to non-conforming structures and site conditions.

   c. Compliance with the State Historic Building Code and portions of the Uniform Code for Building Conservation, rather than the current edition of the Uniform Building Code.

   d. At the option of the City, conservation easements for facades that may provide tax advantages to the donor, as approved by the City.

   e. At the option of the City, facade rehabilitation grants or loans, through the Community Development Agency, for designated historic commercial structures, to the extent available and as approved by the City.

2. Specific incentives for structures and sites within the :HL district. The Council may grant any or all of the following rehabilitation incentives to a site or structure that is designated within the :HL combining zone, in addition to the incentives in Subsection C.1.

   a. Adaptive reuse. In order to encourage the economic viability and preservation of Landmark Structures in the residential zoning districts, this Section provides for the occupancy of Landmark Structures within the :HL combining zone by land uses that are not otherwise allowed within the primary residential zoning district.

b. Allowable land uses. The following uses may be allowed if the proposed use and structure comply with all applicable requirements of Articles 2, 3, and 4 of this Land Use Code, and if the review authority makes the findings required by Subsection D.2.b.

(1) RVL zone: Multi-family housing.

(2) RL, RM, and RH zones: Multi-family housing; Medical services - Doctor Office (no private clinics, labs, pharmacies, or boutiques); Office - Business/Service; and Office - Professional.

c. Fee waivers. Permit fee waivers;

d. State and Federal Incentives. Other incentives include Federal Rehabilitation Tax Credits, California Heritage Fund Grant Program, and the Mills Act Property Tax Abatement Program. The HRA and Council do not have jurisdiction over all these funding sources. For instance, private parties and non-profits can apply for Federal Rehabilitation Tax Credits and/or funds from the California Heritage Fund Grant program without HRA or Council approval.

D. Review and approval of specific incentives for rehabilitation projects.

1. Hearing and action by HDRC and Council.

a. The HDRC shall hold a public hearing to determine the eligibility of a property for any of the specific incentives for rehabilitation projects identified in Subsections C.1 and C.2, above and shall provide a written recommendation to the Council to approve or disapprove any specific incentives.

b. The Council shall hold a public hearing to consider the recommendation of the HDRC to approve or disapprove any incentives.

c. Notice of the public hearings shall be provided, and the hearings shall be conducted in compliance with Chapter 9.74 (Public Hearings) and include a notice to the Historical Sites Society of Arcata.

2. Required findings for approval. The HDRC may recommend, and the Council may grant specific incentives for rehabilitation projects, only after first making all of the following findings:

a. Findings for all incentives.

(1) Each incentive to be granted compensates the property owner for the rehabilitation project;

(2) No approved incentive will impair the aesthetic, architectural, or historic integrity of the resource; and

(3) No proposed incentive will be detrimental to the public health, safety, or general welfare.

b. Findings for adaptive reuse. In addition to the above findings, the HDRC and Council shall make the following findings for the approval of adaptive reuse:

(1) The change of use will occupy no more floor area than the original use;

(2) The proposed use will not significantly impair the exterior architectural character of adjoining properties; and

(3) The change of use will result in:

(a) Substantial rehabilitation of significant architectural features if they have been altered;

(b) Substantial rehabilitation of the exterior appearance of the resource; and

(c) A maintenance plan that will ensure the upkeep and continued maintenance of the resource.

3. Conditions of approval. In approving adaptive reuse incentives, the Council may impose any conditions of approval deemed reasonable and necessary to ensure compatibility between the new use and the surrounding area.

9.53.080 - Duty to Maintain and Repair

If periodic maintenance and upkeep is not performed and the historical resource falls into disrepair, the disrepair shall not be used as justification for demolition, or any other alteration inconsistent with the provisions of this Chapter. Lien procedures through the nuisance abatement process, as outlined in Section 9.90.070, may be considered by the City to address a demolition by neglect. The HDRC can provide recommendations to the Council on nuisance abatement requests.

9.53.090 - Unsafe or Dangerous Condition

A. Correcting an Unsafe or Dangerous Condition. The provisions of this Chapter shall not prevent measures of construction, alteration, or demolition that are necessary to correct an unsafe or dangerous condition of a structure, other feature or part of a historical resource where:

1. The condition has been declared unsafe or dangerous by the Chief Building Official or the Fire Marshal; and

2. The proposed measures have been declared necessary by the official to correct the unsafe or dangerous condition; and

3. The proposed measures are done with due regard for preservation of the appearance of the structure.

B. Removing a Damaged Resource. If more than 75% of a historical resource or other feature is damaged by fire, or other calamity to an extent that, in the opinion of the Building Official it cannot be reasonably repaired and restored, it may be removed in compliance with all applicable provisions of this Land Use Code and the Municipal Code.

9.53.100 - Inadvertent Archaeological Discoveries

The following standard operating procedures (SOPs) for handling "post-review" of inadvertent archaeological discoveries shall be adopted for all phases and aspects of work carried out by or for the City of Arcata and at the discretion of the City Community Development Department, attached as a Condition to Permits approved pursuant to CEQA. The intent is to avoid or minimize direct or indirect impacts to significant archaeological or Native American discoveries that may qualify for inclusion in the California Register of Historical Resources and the National Register of Historic Places.

A. Notification of Discoveries. The Director shall be notified immediately upon the inadvertent discovery of an archaeological find or the inadvertent discovery of Native American remains and /or grave goods.

B. Establish List of Qualified Professional Archaeologists. For City of Arcata Projects, the City shall make arrangements for the on-call services of one or more qualified archaeologists, using the list of qualified archaeologists provided by the North Coastal Information Center. These professionals will provide services as needed by the City to conduct rapid assessments of potentially significant archaeological finds discovered during city projects. CEQA Project Applicants will be provided the North Coastal Information Center list of qualified professional consultants to contact in the event that archaeological materials are encountered in a "post-review" scenario.

C. Establish Protocol for Notifying Wiyot Tribal Representatives of Native American Discoveries. A component of the agreement developed under 9.53.030.D will be the specification of a protocol for the notification of Wiyot tribal governments in cases of inadvertent discoveries of Native American cultural resources.

D. SOP for Inadvertent Archaeological Discovery (General). Ground-disturbing activities shall be immediately stopped if potentially significant historic or archaeological materials are discovered. Examples include, but are not limited to, concentrations of historic artifacts (e.g., bottles, ceramics) or prehistoric artifacts (chipped chert or obsidian, arrow points, ground stone mortars and pestles), culturally altered ash-stained midden soils associated with pre-contact Native American habitation sites, concentrations of fire-altered rock and/or burned or charred organic materials, and historic structure remains such as stone-lined building foundations, wells or privy pits. Ground-disturbing project activities may continue in other areas that are outside the discovery locale.

1. An "exclusion zone" where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area plus a reasonable buffer zone by the Contractor Foreman or authorized representative, or party who made the discovery and initiated these SOP, or if on-site at the time of discovery, by the Monitoring Archaeologist.

2. The discovery locale shall be secured (e.g., 24-hour surveillance) as directed by the City if considered prudent to avoid further disturbances.

3. The Contractor Foreman or authorized representative, or party who made the discovery and initiated these SOP, shall be responsible for immediately contacting by telephone the parties listed below to report the find and initiate the consultation process for its treatment and disposition:

   a. The City's authorized Point-of-Contact (POC) and City Manager;

   b. The Contractor's authorized POC;

c. Authorized POC of applicable agencies

d. Tribal representative

In addition, in cases where a known or suspected Native American burial or skeletal remains are uncovered, the SOPs under paragraph E shall also be followed and the following contacts shall be notified:

a. The Coroner of the county where the discovery is made; and

b. The Native American Heritage Commission (NAHC) in Sacramento (916-653-4082).

4. Ground-disturbing project work at the find locality shall be suspended temporarily while the City, its Lead Archaeologist, State Office of Historic Preservation (OHP) staff, and other applicable parties consult about appropriate treatment and disposition of the find. Should Native American remains be encountered, the provisions of State laws shall apply (see below). The Treatment Plan shall reference appropriate laws and include provisions for analyses, reporting, and final disposition of data recovery documentation and any collected artifacts or other archaeological constituents.

5. The City's officers, employees and agents, including Contractors, shall be obligated to protect significant cultural resource discoveries and may be subject to prosecution if applicable State or Federal laws are violated. In no event shall unauthorized persons collect artifacts.

6. Any and all inadvertent discoveries shall be considered strictly confidential, with information about their location and nature being disclosed only to those with a need to know. The City's authorized representative shall be responsible for coordinating any requests by or contacts to the media about a discovery.

7. SOPs shall be communicated to the City's field work force including its Contractors, employees, officers or agents, and such communications may be made through weekly tailgate safety briefings.

8. Ground-disturbing work at a discovery locale may not be resumed until authorized by the City's POC.

E. SOP for Inadvertent Discovery of Human Remains and Grave Goods. The following policies and procedures for treatment and disposition of inadvertently discovered human remains shall apply:

1. If human remains are encountered, they shall be treated with dignity and respect as due to them. Discovery of Native American remains is a very sensitive issue and serious concern of affiliated Native Americans. Information about such a discovery shall be held in confidence by all project personnel on a need-to-know basis. The rights of Native Americans to practice ceremonial observances on sites, in labs and around artifacts shall be upheld.

2. Violators of Section 7050.5 of the California Health and Safety Code may be subject to prosecution to the full extent of applicable law (felony offense).

3. In the event that known or suspected Native American remains are encountered, the above procedures of SOP paragraph D for Inadvertent Archaeological Discovery (General) shall be followed (including notifications to those identified in D.3, in addition to the provisions of California law (Section 7050.5 of the California Health and Safety Code and Section 5097.98 of the California Public Resources Code), as follows:

   a. The Coroner has two working days to examine the remains after being notified of the discovery. If the remains are Native American, the Coroner has 24 hours to notify the NAHC.

   b. The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD) of the deceased Native American. (Note: NAHC policy holds that the Native American Monitor will not be designated the MLD.)

   c. Within 24 hours of their notification by the NAHC, the MLD will be granted permission by NCRA to inspect the discovery site if they so choose.

   d. Within 24 hours of their notification by the NAHC, the MLD may recommend to the City's POC means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The recommendation may include the scientific removal and non-destructive or destructive analysis of human remains and items associated with Native American burials. Only those osteological analyses (if any) recommended by the MLD may be considered and carried out.

   e. Whenever the NAHC is unable to identify a MLD, or the MLD identified fails to make a recommendation, or the City's POC rejects the recommendation of the MLD and mediation between the parties by NAHC fails to provide measures acceptable to NCRA, NCRA shall cause the re-burial of the human remains and associated grave offerings with appropriate dignity on the property in a location not subject to further subsurface disturbance.

F. Standard Operating Procedures (SOP) for Documenting Inadvertent Archaeological Discoveries.

1. The Contractor Foreman or authorized representative, or party who made the discovery and initiated these SOP, shall make written notes available to the City describing: the circumstances, date, time, location and nature of the discovery; date and time each POC was informed about the discovery; and when and how security measures were implemented.

2. The City's POC shall prepare or authorize the preparation of a summary report which shall include: the time and nature of the discovery; who and when parties were notified; outcome of consultations with appropriate agencies and Native American representatives; how, when and by whom the approved Treatment Plan was carried out; and final disposition of any collected archaeological specimens.

3. The Contractor Foreman or authorized representative shall record how the discovery downtime affected the immediate and near-term contracted work schedule, for purposes of negotiating contract changes where applicable.

4. Monitoring Archaeologists and Native American Representatives shall maintain daily field notes.

5. Treatment Plans and corresponding Data Recovery Reports shall be authored by professionals who meet the Federal criteria for Principal Investigator Archaeologist and reference the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation (48 FR 44734-44737).

6. Final disposition of all collected archaeological materials shall be documented in the final Data Recovery Report. Long-term storage of collections may be housed at the facility nearest to the discovery locale that conforms to Federal guidelines for curation of archaeological collections (36 CFR 79).

G. Filing with the California Historical Resources Information System (CHRIS). Final Data Recovery Reports along with updated standard California site record forms (DPR 523 series) shall be filed at the appropriate Information Center of the California Historical Resources Information System (CHRIS).

H. Sacred Sites Inventory. Confidential information concerning the discovery location, treatment and final disposition of Native American remains shall be forwarded to the Sacred Sites Inventory maintained by the NAHC.

CHAPTER 9.54 - RESOURCE CONSERVATION

Sections:

9.54.010 - Purpose
9.54.020 - Applicability
9.54.030 - Energy Conservation Standard
9.54.040 - References to Additional City Resource Conservation Standards
9.54.050 - Construction Materials Recycling

9.54.010 - Purpose

The purpose of this Chapter is to establish additional standards that improve energy conservation and minimize solid waste disposal in new development.

A. This Chapter provides standards to assist new development in achieving the conservation of community resources. This Chapter also provides cross-references to other sections of this Land Use Code that address resource conservation issues in relation to the topics of those regulations (e.g., subdivision design, exterior lighting, etc.).

B. This Land Use Code includes a variety of standards, in addition to those in, or referenced in this Chapter, that interact to implement resource conservation goals. These standards provide for: development that is mixed use and walkable; housing for diverse family types (including second units); and the preservation of habitat, wetlands, and other environmental resources.

C. Collectively, the resource conservation standards of this Land Use Code are intended to reduce per capita energy consumption, and its contributions to global greenhouse gas production, potable water consumption and resulting wastewater production, and solid waste production.

9.54.020 - Applicability

The provisions of this Chapter apply to all proposed development including new construction and demolition projects.

9.54.030 - Energy Conservation Standard

Each new structure shall be designed and constructed to achieve a minimum of 15 percent greater energy efficiency than otherwise required by the current California Code of Regulations, Title 24. Remodeling or other alterations to an existing structure shall require that the entire structure be brought into compliance with this requirement only if the proposed extent of change to the existing structure is sufficient that the Building Code would otherwise require that the entire structure comply with all applicable current Building Code requirements.

9.54.040 - References to Additional City Resource Conservation Standards

The following table identifies standards established by other Chapters of the Municipal Code that provide for the conservation of energy and/or other community resources.

Resource Issue	Topic of Land Use Code Regulation	Code Section
Energy conservation	Outdoor lighting - General lighting standards	9.30.070
	Outdoor lighting - Service stations	9.42.180
	Sign lighting	9.38.070.H
	Subdivision design - Lot orientation	9.88.030.C
Recycling and solid waste source reduction	Recycling facility standards	9.42.160
	Solid waste/recyclable materials storage	9.30.100
Solar access protection	Landscaping - Selection and placement	9.34.060.A.3.b
	Solar siting and solar access	9.56
Energy conservation through reduced automobile travel	Bicycle parking	9.36.060
	Live/work units	9.42.100
	Mixed use projects	9.42.110
Use of wind energy	Windmills for electricity generation	9.42.190
Water conservation	Landscaping - water waste prohibited	9.34.070.B

9.54.050 - Construction Materials Recycling

A. Applicability. All construction and demolition projects shall provide for the reduction, reuse, and recycling of waste materials in compliance with this Section, except that alterations to an existing residential structure that do not require that the entire structure be brought up to current Building Code standards are exempt.

B. Waste Management Plan required. All Building, Grading, and Demolition Permit applications shall include a Construction Waste Management Plan. The plan shall include the following information.

1. Analysis of waste. An analysis and estimate of the types and amount of waste to be generated.

2. Landfill options. The name and location of the landfills to be used for the disposal of the materials and the projected costs of landfill disposal.

3. Alternatives to disposal. A list of the materials to be salvaged, recycled, or reused during the project; the proposed market for each material; projected revenue from the sale of the materials, if any, and estimated costs. Materials to be recycled, reused, or salvaged should include asphalt, bricks, cardboard, concrete, dimensional wood, drywall, glass (windows, mirrors), green and wood waste from land clearing, metals (from banding, stud trim, ductwork, pipes, rebar, steel, iron, plumbing fittings, aluminum, zinc, copper, brass, and bronze), paint, plastics.

4. Materials handling procedures. A description of the means by which materials to be recycled or reused will be handled, source separated, etc., in preparation for acceptance by the designated facilities.

5. Transportation. A description of how materials will be transported, whether self-hauled to designated centers or collected by a waste hauler.

C. Timing of approval. No Building, Grading, or Demolition Permit shall be issued by the City until the Director of Environmental Services has approved the Construction Waste Management Plan. The permittee may request and the Director may approve changes to the Waste Management Plan during the course of construction or demolition activities if unforeseen circumstances arise.

D. Final report. Prior to final building inspection or issuance of a certificate of occupancy, the permittee shall submit to the City and receive approval of a final recycling report which documents to the satisfaction of the Director of Environmental Services that the construction and/or demolition waste materials generated by the project were recycled in compliance with the approved Waste Management Plan.

CHAPTER 9.56 - SOLAR SITING AND SOLAR ACCESS

Sections:

9.56.010 - Purpose and Objectives
9.56.020 - Applicability
9.56.030 - Definitions
9.56.040 - Subdivision Design, Building Orientation, Easements, and Access
9.56.050 - Solar Access Easements
9.56.060 - Solar Shade Control Act
9.56.070 - Solar Rights Act

9.56.010 - Purpose and Objectives

A. The City recognizes the importance of protecting the potential for solar energy use. The purpose of this Chapter is to maximize access to sunlight for City residents.

B. This Chapter is intended to implement the *California Solar Rights Act* and the *California Solar Shade Control Act*, as well as to strive to meet the City's energy policy goals as outlined in the *Arcata General Plan 2020*. The provisions of this Chapter are intended to protect access to solar energy for future development in Arcata by serving as a guideline for new development. This is done by setting limits on the amount of shading permitted by new construction and requiring that new buildings be sited to maximize solar access. Proper building siting and orientation is required to fully utilize solar energy. These measures will benefit the citizens of Arcata by reducing dependence on non-renewable energy sources.

C. The potential economic and environmental benefits of solar energy use are considered to be in the public interest; therefore, local governments are authorized to encourage and protect access to direct sunlight for solar energy systems. Solar easements are appropriate to assuring continued access to direct sunlight for solar energy systems, and may be created and privately negotiated.

9.56.020 - Applicability

The provisions of this Chapter shall apply to all development within the City, in all zoning districts, except for a condominium conversion in compliance with Section 9.84.040 (Condominium Conversions).

9.56.030 - Definitions

Definitions of the technical terms and phrases in this Chapter may be found in Article 10 (Glossary) under "Solar Access."

9.56.040 - Subdivision Design, Building Orientation, Easements, and Access

Design approaches that maximize natural heating and cooling opportunities and use of solar energy in development design shall be pursued whenever the energy conservation benefits and solar energy development potential are greater than the associated negative impacts. It is not intended that the requirements of this section result in reducing densities, reduced buildable lot area that may be occupied by a structure, precluding construction under the zoning regulations applicable at the time a Tentative Map is filed, or cause the unnecessary removal of trees.

A. Application requirements. A plan-view, shade projection map, detailing shadows cast on the ground by all buildings, and all vegetation exceeding 10 feet in height, on December 21 between the hours of 10 a.m. and 2 p.m. shall be provided with each subdivision or planning permit application.

B. Minimum solar access requirement. The lot size, orientation, and building configuration of Planned Developments, subdivisions, and all other development that requires City discretionary review, shall provide for each primary dwelling on at least 80 percent of the building sites to have adequate solar access.

1. The lot size and configuration shall permit the short axis of primary dwellings to be aligned between 15 degrees east of south and 30 degrees west of south.

2. A different orientation may be allowed where the review authority determines that more effective solar access can be accomplished. When adequate solar access is not feasible on one or more lots, those lots shall be designed to provide as much solar access as possible.

C. Protection of existing solar access. The lot size, orientation, and building configuration of a proposed subdivision shall ensure that no primary dwelling on a lot adjacent the proposed project loses existing adequate solar access.

D. Street orientation. To provide the greatest flexibility in satisfying the requirements of Subsections A., and B., streets shall be oriented within 15 degrees of east-west or north-south where feasible. A different orientation may be allowed where the review authority determines that more effective solar access can be accomplished through other means.

E. Exceptions. An applicant may request exceptions to the requirements of this Section by including a written statement with sufficient supporting documentation with the application for City approval of the project. After review and a recommendation by the Director, the Planning Commission may grant the exception along with project approval only after first finding that:

1. Compliance will result in reduced residential densities below that which would normally be allowed at the time the application is filed, or

2. Compliance is otherwise not feasible.

9.56.050 - Solar Access Easements

A. When required.

1. When building configuration is specified on a Tentative Map or other development proposal, and upon finding that neither lot size, lot configuration, or applicable zoning is sufficient to reasonably protect solar access to a proposed south wall or south roof, the Planning Commission may require the preparation and dedication of solar access easements as a condition of Tentative Map approval for any subdivision application containing one or more lots under one acre.

2. No solar access easement shall be required where the lot that would be benefited is of one acre or more, and the applicable zoning requires single-family dwellings, or where solar access is not available because of existing vegetation, topography, surrounding development, or where other deed restrictions are sufficient to protect solar access.

B. Easement design, dimensions. A solar access easement shall be designed to protect solar access to proposed south roof and south wall areas. In establishing the dimensions of a solar access easement, consideration shall be given to contour, configuration of the parcel to be divided, existing vegetation, and the use of adjacent parcels.

C. Form of and content of easement document. A solar access easement shall be prepared in compliance with the "Model Solar Easement Form" established by the Arcata Energy Committee, and all requirements of the City Attorney, and shall include, at minimum, all of the following:

1. A description of the solar access easement in terms of specific areas on benefited property to which solar access is to be protected and a statement specifying that no structure, vegetation, or land use, shall cast a shadow so as to obstruct the passage of direct sunlight to more than 10 percent of a protected area on a benefited property between 10 a.m. and 2 p.m. at any time throughout the year;

2. A statement that the burdens and benefits of the solar access easement are transferable and run with the land; and

3. A diagram of the burdened property prepared in a format acceptable to the County Recorder indicating, in a manner easily understood by non-technical persons, the approximate height restrictions on the property necessary to protect solar access to specific areas on benefited property.

D. Recording. A required solar access easement shall be recorded with the County Recorder. If the development involves a subdivision, the easement shall be recorded at the time of recording the Final Map or Parcel Map.

E. Revision, termination. A solar access easement may be revised or terminated as follows, or by a modification in writing that is signed by all benefited and burdened property owners and recorded with the County Recorder. The initial grantor of the easement shall not have a right to modify the easement.

1. To avoid unnecessary property burdens, no change in restrictions on structures, vegetation, and land uses shall be made unless a revised solar access easement signed by the owners of all affected benefited and burdened properties, in compliance with this Section has been recorded with the County Recorder.

2. The easement shall include a statement that upon refusal by the owners of an affected property to sign the modified solar access easement, any other affected property owner may bring an action in Court to determine what modification, if any, should be made to the easement, and that costs of suit may be awarded to the prevailing party. This provision is not intended to, and shall not increase the area burdened by any solar access easement on any property.

9.56.060 - Solar Shade Control Act

The California Solar Shade Control Act (Public Resources Code 25982) states that no person owning, or in control of a property shall allow a tree or shrub to be placed, or, if placed to grow on such property, subsequent to the installation of a solar collector on the property of another so as to cast a shadow greater than 10 percent of the collector absorption area upon that solar collector surface on the property of another at any one time between the hours of 10 a.m. and 2.p.m., local standard time; provided that this section shall not apply to specific trees and shrubs which at the time of the installation of a solar collector or during the remainder of that annual solar cycle cast a shadow upon that solar collector. The City requires property owners or others in control of a property to abide by this Act, and any subsequent changes in the Act. Those seeking permits for solar systems are advised to establish documentation of vegetation existing at the time of their solar system construction or installation.

9.56.070 - Solar Rights Act

The City will enforce and abide by the California Solar Rights Act (Civil Code Section 714). Any deed restriction or covenant that unreasonably restricts or prohibits the installation or use of solar energy systems shall be made void and unenforceable. This includes any restriction of clotheslines for drying clothes outdoors. In addition, the City shall not enact any policy, ordinance or regulation that prohibits or unreasonably restricts the installation or use of solar energy systems. Unreasonable restrictions are defined as anything that increases cost by greater than 20 percent or decreases efficiency by greater than 20 percent.

CHAPTER 9.58 - TREE PRESERVATION AND HAZARDOUS TREE REMOVAL

Sections:

9.58.010 - Purpose
9.58.020 - Applicability
9.58.030 - Tree Removal Permit Application Requirements
9.58.040 - Exemptions
9.58.050 - Tree Removal Permit Findings and Conditions
9.58.060 - Post Approval Procedures
9.58.070 - Tree Removal Without Permit

9.58.010 - Purpose

The trees of Arcata are significant community resources that play an important role in defining the character of the City, serve as wildlife habitat, and provide other environmental values. Certain hedgerows, windrows, groves of trees, and creekside riparian areas identified in the Design and Historical Preservation Element or the Resource Conservation and Management Element of the General Plan shall be left intact. Trees identified in the General Plan are considered important to the character of City of Arcata and its neighborhoods, and every effort shall be made to preserve such trees. The purpose of this Chapter is to preserve and protect trees which are considered important to the character of the City of Arcata and its neighborhoods, and which are not subject to commercial timber operations as allowed within the AE, AR, and NR-TP zone districts.

9.58.020 - Applicability

A. Applicability of requirements. The provisions of this Chapter shall apply in all zoning districts, except for the NR-TP zone district for:

1. The removal or relocation of any tree with a diameter of 16-inches or more, measured at 54-inches above natural grade, unless specifically exempted by Section 9.58.040; and

2. The removal or relocation of a group (e.g., stump sprouts) of 30 or more trees with diameters more than 10-inches, measured at 54-inches above natural grade, unless specifically exempted by Section 9.58.040.

B. Tree Removal Permit required.

1. Activities requiring a permit. A Tree Removal Permit shall be required prior to:

a. The relocation, removal, cutting-down, topping or other act that causes the destruction of a tree;

b. The approval of a Hillside Development Permit, Grading Permit, Coastal Development Permit, Use Permit, Minor Use Permit, Variance, Planned Development or Subdivision, hereafter referred to as "discretionary projects."

2. Permit Issuance.

The procedure and review authority for a Tree Removal Permit are as follows:

a. Developed Parcel. A Tree Removal Permit for the removal or relocation of any tree with a diameter of 16-inches or more (measured at 54-inches above natural grade) shall be reviewed as follows:

(1) If the request involves the removal of less than five trees in a 10-year period within an area less than three acres in size, then the City can act on the request as a ministerial project, or

(2) If the request involves the removal of five or more trees, within an area less than three acres in size, then the City shall review a complete Tree Removal Permit application in compliance with Section 9.58.030 (Tree Removal Permit Application Requirements) and Section 9.58.050 (Tree Removal Permit Findings and Conditions).

b. Vacant parcel. A Tree Removal Permit for the removal or relocation of any tree with a diameter of 16-inches or more (measured at 54-inches above the natural grade) shall be reviewed as follows:

(1) If the request involves the removal of less than five trees within a proposed access road and buildable area (as defined by Section 9.52.020B of this Land Use Code) and it is done in conjunction with a Building Permit, then the City can act on the request as a ministerial project, or

(2) If the request involves the approval of a discretionary project for the same site (e.g. Major Subdivision/Planned Development), then the City shall review a complete Tree Removal Permit application in compliance with Sections 9.58.030 and 9.58.050 of this Land Use Code and with Policies D-3j and D-4d of the General Plan, or

(3) If the request involves the removal of vegetation within the natural area of a parcel, then the City shall review a complete Tree Removal Permit application in compliance with Sections 9.58.030 and 9.58.050 of this Land Use Code and with Policies D-3j and D-4d of the General Plan.

C. Timing of Removal of Large-Stature Trees. A tree with a height of 150 feet or more may be evaluated by the Director to determine if active nesting or roosting sites for listed bird species or bird species of special concern are occurring within the subject tree (s) during the projected tree removal dates. If such active nesting or roosting activities are occurring during the projected tree removal dates, then the Director can deny the request or require further environmental review.

D. Emergencies. The removal or relocation of a tree that would otherwise require a Tree Removal Permit is exempt from the provisions of this Chapter only in case of an emergency, where the Director, City Forester, a member of a law enforcement agency, or the Fire District determines that a tree presents an immediate danger of collapse and poses an imminent threat to the public safety, or general welfare. In case of an emergency, payment of any fees may be waived.

E. Topping of Trees. Topping of trees is an injurious practice which may lead to stress, disease, and decay in trees. It should be avoided whenever an alternative exists. A Tree Removal Permit for topping may be issued only if the following apply:

1. Hazardous trees. When authorized as part of a Tree Removal Permit and verified in a report prepared by an arborist or a Registered Professional Forester (RPF), a hazardous tree may have its mass reduced to protect property values and to address safety concerns.

2. Solar access. When authorized as part of a Tree Removal Permit and verified in a report prepared by an arborist or a RPF, a tree or trees that hinder direct sunlight for solar energy systems may have their mass reduced to provide solar access.

F. Relationship to CEQA. All Tree Removal Permits are subject to the California Environmental Quality Act (CEQA). However, the scope of environmental review for a Tree Removal Permit depends upon the scope of the request, and the following shall provide direction for Tree Removal Permit reviews:

1. Ministerial Projects. Exemption from the CEQA review process may be allowed for an emergency situation, and for requests to remove four or fewer trees on a vacant or developed parcel.

2. Discretionary Projects.

a. Categorical Exemptions may be allowed for minor alterations to land (Class 4 CEQA exemption) to remove five to ten unhealthy hazardous trees, for fuel management activities permitted by the California Department of Forestry and Fire Protection (CDF), or for the topping of trees.

b. A Functional Equivalent exemption may be allowed for Timber Harvest Plans (as described in Sections 15250 and 15251 (a) of the CEQA Guidelines) for Minor Use Permits in the AE and AR zone districts.

c. An Initial Study may be required for the consideration to remove healthy, mature, or scenic trees that are outside of AE, AR, and NR-TP zone districts.

9.58.030 - Tree Removal Permit Application Requirements

A. Application contents. Each Tree Removal Permit application shall include the application form, and other information and materials required by the Department, the application fee required by the City fee schedule, and the following additional information:

1. If not otherwise required for another City permit, a Plot Plan must be submitted that is drawn to the requirements of the City Plot Plan Checklist (parking, utility, and building detail is not required, other than to identify the footprint of existing structures). Plot Plans shall include the type, size, and location of trees to be topped, trees to be removed, trees to be retained, and trees to be planted. Any riparian corridor shall be identified on the Plot Plan and as per Chapter 9.59.

2. The applicant shall state whether the project involves the clearing of vegetation around a house in order to establish defensible space as identified in California Department of Forestry and Fire Protection (CDF) Fire Safe Guidelines and shall state whether a CDF permit is required.

3. A plan of operation including: hours of operation, method of debris disposal, haul route, and erosion control methods (Best Management Practices).

4. The application may be required to include an Arborist's or RPF's report, at the discretion of the Director or City Forester. The report may be required to include:

   a. Location and type of tree protection measures to be installed for retained trees;

   b. Aerial photograph(s) of the project site; and

   c. A utility trenching pathway plan (if applicable).

5. Identification of a contact person shall be available during hours of operation.

6. If the site is subject to conditions, covenants, and restrictions (CC&Rs) that address tree removal and are administered by an active homeowners' association, the application shall include a letter from the homeowners' association authorizing the tree removal.

7. If the project is considered discretionary, then the applicant shall submit the noticing requirements as identified in Subsection 9.74.020.B.(1) [Method of Notice Distribution - mailing].

B. Application filing. An application for a Tree Removal Permit involving a discretionary project shall be included as part of the application for the discretionary project. An application for a Tree Removal Permit not associated with a discretionary project shall be filed with the Department separately.

C. On-site information. The following information shall be on-site while any construction activity is on going for a project requiring a Tree Removal Permit:

1. Any applicable arborist's or RPF's report and any subsequent modifications to the arborist's report;

2. Tree removal location map with a copy of the remaining tree(s) protection measures;

3. Tree Removal Permit and approved construction plans;

4. Approved planting and irrigation drawings; and

5. A numbering system to identify trees proposed for removal.

D. Information on standards. The developer or applicant shall be responsible for informing, in writing, all subcontractors and individuals who will be performing work around protected trees of the requirements of this Section and conditions of approval for the project.

E. Final certification of tree work. All of the tree preservation measures required by the conditions of the discretionary project approval, and/or the Tree Removal Permit, as applicable, shall be completed, and certified by an arborist or RPF selected by the Director prior to City issuance of a Final Building Inspection or Certificate of Occupancy

9.58.040 - Exemptions

The following activities are hereby exempt from the requirement of this chapter:

1. Those activities associated with the establishment or alteration of any public park, Community Forest, and open space area that is under the review of the Parks and Recreation Committee, the Open Space Committee, or the Forest Management Committee.

2. Removal of 4 or fewer trees with diameters less than 16-inches, measured at 54-inches above natural grade.

3. Removal of any tree from public rights of way or public school lands.

4. Removal of any tree which complies with Conditions of Approval for an approved Landscaping Plan.

5. Emergency tree removals.

6. Any activity associated with tree trimming for safety reasons as mandated by the California Public Utilities Commission.

7. Removal of trees from the AE, AR, NR-TP zone district that are part of a CDF regulated timber harvesting operation.

8. Removal of a dead tree, except for large dead trees (snags) that are 30-inches or more in diameter, measured at 54-inches above natural grade.

9. Live and dead limb removal that does not involve topping the main trunk.

10. Removal of groups (e.g., stump sprouts) of trees (less than 30) with diameters 10-inches or less, measured at 54-inches above natural grade.

9.58.050 - Tree Removal Permit Findings and Conditions

Tree Removal Permits shall be reviewed and decided by the Zoning Administrator as follows.

A. Required findings. The approval of a Tree Removal Permit shall require that the review authority make all the following findings:

1. The approval of the Tree Removal Permit will not be detrimental to the public health, safety or welfare, and approval of the Tree Removal Permit is consistent with the provisions of this Chapter and in compliance with General Plan: 2020 and Chapter 9.59; and

2. Measures have been incorporated into the project or permit to mitigate impacts to remaining trees or to replace the trees removed in compliance with this Chapter; and

3. The removal of a healthy tree cannot be avoided by:

   a. Reasonable redesign of the site plan prior to construction; or

b. Trimming, thinning, tree surgery, or other reasonable treatment, as determined by the Director; and

4. Adequate provisions for drainage, erosion control, land stability, windscreen, and buffers along any road and between neighbors have been made where these problems are anticipated as a result of the removal; and

5. The tree(s) to be removed do not contain active nesting or roosting sites that have been identified through the review process or are otherwise known to the review authority as the nests of a listed bird species or bird species of special concern; and

6. The tree(s) is not within any hedgerows, windrows, or rows of trees to be left intact as identified in the Arcata General Plan 2020 or other plans approved by the Council.

B. Conditions of Approval. The approval of a Tree Removal Permit shall include Conditions of Approval as necessary to ensure compliance with Section 9.58.050 (Tree Removal Permit Findings and Conditions), and all other applicable provisions of this Land Use Code. Conditions of Approval may include, but are not limited to:

1. Requiring removal of invasive or noxious vegetation (e.g. English Ivy) from other trees on the applicant's property.

2. Allowing for the removal of non-native trees adjacent to natural areas if replaced with an appropriate native tree.

3. Provision for forest stands in residentially zoned districts to not allow more than 25% of the stem basal area to be removed in any 10-year period.

4. Requiring tree replacement(s) for any tree(s) removed through a tree removal permit.

5. Weekday hours of operation.

9.58.060 - Post Approval Procedures

The following procedures apply after the approval of a Tree Removal Permit application.

A. Appeal. A decision on a Tree Removal Permit application may be appealed in compliance with Chapter 9.76 (Appeals).

B. Expiration/extension. Except where otherwise provided by this Chapter, the work authorized by a Tree Removal Permit shall commence within six months from the date of approval or other time limit established through a concurrent planning permit approval. Time extensions, for up to a total of two additional years, may be granted in compliance with Chapter 9.79 (Permit Implementation, Time Limits, and Extensions). A Tree Removal Permit not exercised within its time limits shall expire in compliance with Chapter 9.79 (Permit Implementation, Time Limits, and Extensions).

C. Performance guarantee. The City may require that a security deposit be posted and maintained where deemed necessary to ensure:

1. The preservation of protected trees during construction; and

2. The successful completion of required mitigation measures within 3 years.

The deposit shall be posted in a form approved by the City Attorney prior to any grading or movement of heavy equipment onto the site or issuance of any permits. Each violation of any Tree Removal Permit condition regarding tree preservation shall result in forfeiture of a portion or the entirety of the deposit, at the discretion of the review authority, provided that this determination may be appealed in compliance with Chapter 9.76 (Appeals).

D. Construction monitoring. Monitoring of tree protection and restoration measures specified as conditions of approval shall be performed by site inspection conducted by the City.

E. Revocation. A Tree Removal Permit may be revoked or modified, as provided in Section 9.96.070 (Permit Revocation and Modification).

F. Stop work orders. Whenever any construction or work is being performed contrary to the provisions of this Chapter or applicable conditions of approval, the Director may issue a written notice to the responsible party to stop work on the project on which the violation has occurred or upon which the danger exists. The notice shall state the nature of the violation and the risk to the trees. No further work shall be allowed until the violation has been corrected and approved by the Director.

9.58.070 - Tree Removal Without Permit

In the event of the removal of a tree without a permit in compliance with this Chapter, the City shall require the property owner to submit a Tree Removal Permit application, in compliance with this Chapter, pay a penalty fee of triple stumpage, staff costs, and to replant any tree removed.

CHAPTER 9.59 - ENVIRONMENTALLY SENSITIVE HABITAT AREAS PROTECTION AND PRESERVATION

Sections:

9.59.010 - Purpose
9.59.020 - Applicability
9.59.030 - Definitions
9.59.040 - Application Requirements
9.59.050 - Stream Conservation and Management
9.59.060 - Wetland Conservation and Management
9.59.070 - Project Review Procedures
9.59.080 - Conservation Easements
9.59.090 - Findings Required for Project Approval
9.59.100 - Notice of Protection Combining Zone Overlay

9.59.010 - Purpose

Environmentally sensitive habitat areas (ESHA) (Arcata Bay, tidal sloughs, estuaries, creeks, ponds, salt marshes, riparian corridors, wetlands, bird rookeries, shorebird concentration sites, Arcata Marsh and Wildlife Sanctuary, and diked/reclaimed former tidelands-Public Trust Lands) within the City are important natural resources that provide ecological balance, ecosystem function, biological productivity, and values such as wildlife habitat, water quality, open space and scenic resources, flood control , and opportunities for scientific study and education. Therefore, the requirements of this Chapter are intended to:

A. Protect the structure, composition, function and natural processes of ESHA to the same extent as occurs in the least-disturbed natural ecosystems in the City's Planning Area;

B. Provide standards for development that will incorporate ESHA into the site design of proposed development without significant adverse impacts to these resources;

C. Ensure that any proposed subdivision, land use or development adjacent (within 250 feet) to or capable of affecting ESHA will not degrade these resources or diminish their structure, composition, function and natural processes; and

D. Ensure that legally created lots in ESHA contain a building site with minimum reduction necessary to the ESHA.

9.59.020 - Applicability

A. The requirements of this Chapter apply to all ESHA and to adjoining properties (within 250 feet) whose proposed subdivision, land use or developments are capable of affecting these resources. No discretionary permit for development (within 250 feet) that may potentially affect ESHA will be issued except in compliance with all applicable requirements of this Chapter.

B. The requirements of this Chapter also apply to Environmental Buffer Areas (EBA). An EBA shall separate all permitted development from adjacent ESHA. The purpose of EBA is to prevent any degradation of the ecological functions provided by the ESHA as a result of adjacent development. The following shall apply to EBA:

1. The minimum width of the EBA for watercourses and wetlands shall be as provided in General Plan policies RC- 2 and RC-3, and Sections 9.59.050 and 060 respectfully.

2. The minimum EBA width for all other ESHA shall be 100 feet, unless the designated setback would eliminate all reasonable use of property.

C. The requirements of this Chapter shall apply in addition to the requirements of the primary zoning district and all other applicable provisions of this Land Use Code. Wherever these regulations conflict with or are inconsistent in application with any other regulation, the most protective of ESHA shall apply.

9.59.030 - Definitions

Definitions of the technical terms and phrases used in this Chapter may be found in Article 10 (Glossary), under "ESHA."

9.59.040 - Application Requirements

Where there is a question regarding the presence of an ESHA, its boundary location, or the applicable EBA dimensions in accordance with this Chapter, the public or private applicant shall provide the City with a Biological Assessment containing the following information:

A. A base map sufficient in scope to cover the ESHA and its EBA that delineates topographic elevations in (1 to 5 foot) intervals, roads, and all other structures, as applicable;

B. A vegetative map covering the base map area in sufficient detail to delineate all vegetative habitats present and to identify species that may indicate the presence and boundary of a ESHA as well as the occurrence of any listed species or species of concern;

C. A soil map delineating the location of hydric and non-hydric soils;

D. The top of bank for any protected watercourse (tidal water, estuary, stream or pond) will be located on the base topographic map and cross section(s) as identified by Figure 5-6, 5-7, or 5-8.

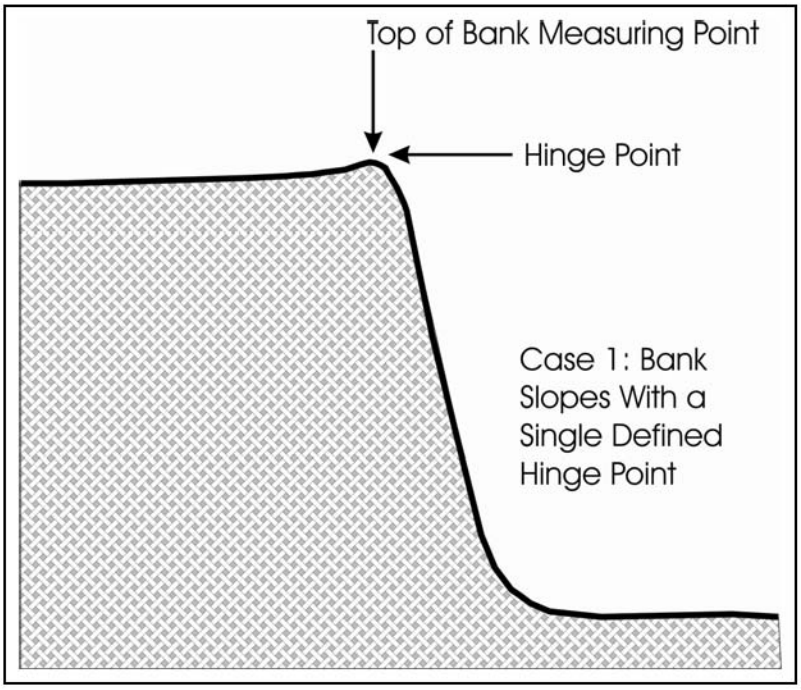

Figure 5-6 - Top of Bank Setback Measurement - Bank Slopes With a Single Defined Hinge Point

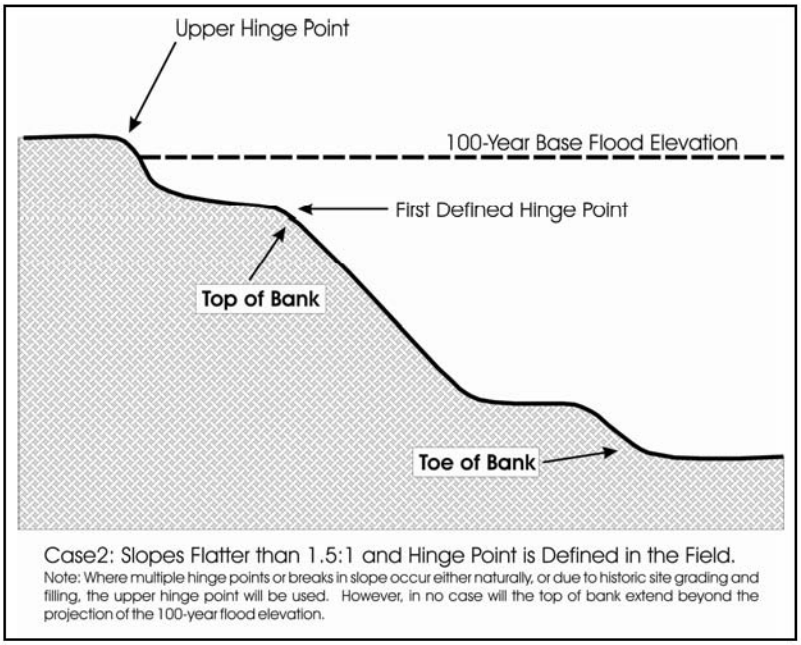

Figure 5-7 - Top of Bank Setback Measurement - Bank Slopes With Multiple Hinge Points

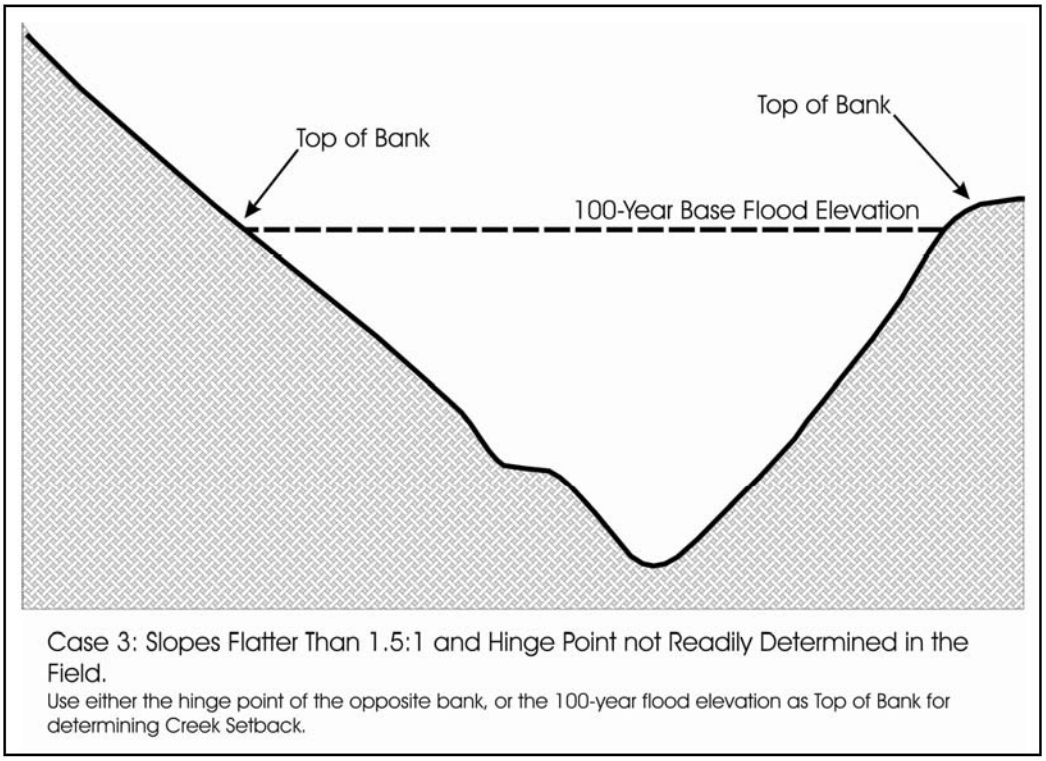

Figure 5-8 - Top of Bank Setback Measurement - Hinge Point Not Easily Defined

E. Wetlands delineation shall be based upon detailed field investigation of hydrology, soils and biota conducted by a qualified professional. The procedures for delineating wetlands are specified in the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands, USACOE 1987." The City's definition of wetlands utilizes a two-parameter protocol; a wetland includes those lands where two or more of the following characteristics are present, where one is a source of water (surface or subsurface) that is present for sufficient periods, and the second is to promote either the formation of hydric soils or growth of hydrophytic plant species. In the Coastal Zone a wetland can be delineated in the absence of hydric soils or growth of hydrophytic plant species by locating the boundary between land that is flooded or saturated as some time during years of normal precipitation, and the land that is not (CCR 13577);

F. Survey of wildlife species indicating the existence, or non existence, of an ESHA as well as the occurrence of any listed species or species of special concern;

G. The outward limit of the applicable EBA shall be indicated on the base topographic map for each ESHA.

H. An analysis of the ESHA's existing and potential functions (physical, chemical and biological processes that characterize that ESHA) or its values (wildlife, habitat, flood control, open space or recreation) shall be provided.

I. An impact analysis of the proposed development shall be prepared that provides a mitigation and monitoring plan for all potential impacts to ESHA in compliance with Chapter 9.78 (Environmental Review Procedures) and include the following:

1. Time of year that the project and mitigation measures will be implemented.

2. Description of each component of the proposed activities; access, grading, fill, construction, mitigation, monitoring, etc.

3. Description of proposed activities affect(s) to the ESHA.

4. Statement of measurable mitigation goals.

5. Description of a feasible mitigation measures to avoid or reduce any proposed activities' adverse affect(s).

6. On-site ESHA mitigation shall be greater than a 1:1 ratio.

7. Off-site ESHA mitigation ratio shall be a minimum of 4:1 in the Coastal Zone and minimum of 2:1 elsewhere.

8. Description of the methods to be used to implement the mitigation measure, including drawings, maps, or illustrations necessary to adequately describe proposed mitigation.

9. Description of a mitigation monitoring plan to document that each mitigation measure has been implemented and that on an annual basis reports whether the goal has been successfully achieved for five years.

10. Description of remediation measures (contingency plan) that will be employed if at 3 years the mitigation has not achieved its goal.

11. Identification of ESHA restoration opportunities.

9.59.050 - Stream Conservation and Management

Stream (to include all watercourses described in the General Plan Policy RC 1d and in Section 9.59.010) conservation and management shall enhance, maintain, and restore the biological integrity of entire watercourses (headwaters to mouth) and associated riparian habitat as natural features in the City's landscape. The following requirements will apply to proposed development and new land uses on property within the Stream Protection combining zone (:SP) which encompasses the ESHA and its EBA that is shown on the Protected Watercourse Map of the Resource Conservation and Management Element of the General Plan (Figure RC-a).

A. The purpose of a :SP is for a watercourse and its EBA to remain in a natural state in order to protect watercourses and riparian habitat. Proposed development and new land use within a :SP may be restricted. The Director (Planning or Environmental Services) may authorize variable EBA widths as per General Plan Policy RC-2b to accommodate unique site conditions as long as the total EBA is greater than the area under a fixed EBA width (ex. 100' x 100' = 10,000 sq. ft. is the minimum EBA). Each :SP for a watercourse identified in the General Plan shall have the following dimensions, all measured perpendicular to the watercourse from the top of bank as defined in Article 10 (Glossary).

1. Existing developed areas. In stream reach areas (see amended exhibit RC-a, General Plan 2020) where existing development as defined in Article 10 (Glossary) is adjacent to a protected watercourse, the EBA shall extend a minimum of 25 feet outward on both sides of the watercourse, measured from the top of bank, or the area bounded by the FEMA Flood Zone A.

2. Undeveloped areas. In stream reach areas with no development (see amended exhibit RC-a, General Plan 2020) adjacent to a protected watercourse the EBA shall extend a minimum of 100 feet outward on both sides of the stream, measured from the top of bank, or the area bounded by the FEMA Flood Zone A, whichever is greater. The review authority may grant a variance, pursuant to State law, to reduce the 100 foot EBA width based on substantial evidence in the Biological Assessment and supported by written findings of compliance with the General Plan Resource Conservation Element.

3. Areas of significant riparian vegetation. On a site with significant areas of riparian vegetation exceeding 100 feet in width measured from the top of bank, the EBA shall be expanded to encompass all of the riparian vegetation, to a maximum of 250 feet from either side of the stream.

4. The City Engineer and the Environmental Services Director may reduce the EBA to less than 25 feet in association with stream "day lighting" (restoration) projects.

B. Allowable uses and activities within :SP shall sustain biological productivity (PRC 30230), protect against any significant disruption of habitat values (PRC 30240), and shall maintain or enhance the functional capacity (PRC 30233). Allowable land uses and activities within a :SP shall be limited to the following, in compliance with all other applicable requirements of this Chapter 9.59 and the General Plan policies RC-1 and RC-2. Any proposed land use, development, or removal of vegetation that is not listed below shall be prohibited.

1. Outside the Coastal Zone:

a. Agricultural uses (including community gardens) determined to be compatible with maintenance of watercourse and riparian resources shall not exceed 50 percent of the setback area and not within 25 feet of the top of bank;

b. Fencing along property boundaries and along :SP boundaries to prevent bank erosion and degradation of natural riparian vegetation by livestock;

c. Maintenance of existing roads, driveways, and structures;

d. Construction of public road crossings;

e. Forest management practices as permitted by the State of California or Arcata's Forest Management Plan;

f. Construction and maintenance of foot trails for public access on public lands;

g. Construction and maintenance of utility lines;

h. ESHA restoration and enhancement projects;

I. Emergency or preventive (where there is no feasible less environmentally damaging alternative) and where feasible mitigation measures have been provided to minimize adverse environmental effects (PRC 30233) removal of sediment and vegetation for flood control purposes when authorized by the City Environmental Services Director; and

j. Construction of new detention basins shall not exceed 50 percent of the setback area and not within 25 feet of the top of bank.

2. In the Coastal Zone:

a. The uses and activities listed in Subsection B.1;

b. Public coastal access improvements; and

c. Boat launching facilities.

3. Exceptions. If restriction(s) in this Subsection would result in an undeveloped legal parcel, not on Public Trust lands, created prior to the effective date of General Plan 2020, being made unusable in its entirety for any use allowed by the General Plan and this Land Use Code, exceptions to that restriction(s) may be granted through Use Permit approval to allow a reasonable economic use of the parcel, provided that there is no feasible less environmentally damaging alternative, and feasible mitigation measures have been provided to minimize adverse environmental effects (PRC 30233) of the proposed use.

9.59.060 - Wetland Conservation and Management

Wetland conservation and management shall protect existing wetlands areas and maintain a standard of "no net loss" in area, function and value, promote restoration of degraded wetland areas, enhancement of wetland functions, and creation of additional wetland areas to replace historic losses. The following requirements will apply to proposed development and new land uses on property within the Wetland Protection Combining zone (:WP) which encompasses the ESHA and its EBA.

A. The purpose of the :WP is for a wetland and its EBA to remain in a natural state in order to protect wetland ecosystems by ensuring no net loss in area, function or value. Proposed development and new land uses within a :WP may be restricted. The Director (Planning or Environmental Services) may authorize variable EBA widths as per General Plan 2020 Policy RC-3c to accommodate unique site conditions as long as the total EBA area is greater than the area under a fixed EBA width (ex. 100' x 100' = 10,000 sq. ft. is the minimum EBA area). Each :WP shall have the following dimensions, all measured perpendicular to the wetland boundary as defined in Article 10 (Glossary).

1. Existing developed areas. In areas where existing development as defined in Article 10 (Glossary) is adjacent to a wetland that has been delineated in compliance with Section 9.59.040, the EBA shall extend a minimum of 50 feet upland of the wetland boundary.

2. Undeveloped areas. In all other locations within the City, the EBA shall extend a minimum of 100 feet upland of the wetland boundary.

3. Artificial wetlands. The EBA may range from zero to 50 feet for Stormwater Best Management Practices such as detention basins and treatment wetlands.

B. Allowable uses and activities within :WP shall sustain biological productivity (PRC 30230), protect against any significant disruption of habitat values (PRC 30240), and shall maintain or enhance functional capacity (PRC 30233). Allowable land uses and activities within a :WP shall be limited to the following items enumerated below, in compliance with all other applicable requirements of Chapter 9.59 and the General Plan policies RC-1 and RC-3. Any proposed land use, development, or removal of vegetation that is not listed below shall be prohibited.

1. ESHA restoration or enhancement projects;

2. Agricultural uses (including community gardens) determined compatible with maintenance of wetland resources and consistent with Resource Conservation Element policy RC-3l shall not exceed 50 percent of the setback area and not within 25 feet of the delineated wetland boundary;

3. Fencing along :WP boundaries to prevent degradation of wetlands by livestock;

4. Maintenance of existing roads, driveways, and structures;

5. Construction and maintenance of foot trails for public access on public lands;

6. Maintenance of drainage ditches when compatible with wetland function;

7. Minor modification of existing, serviceable structures; and

8. Construction of new detention basins shall not exceed 50 percent of the setback area and not within 25 feet of the delineated wetland boundary.

9. Exceptions. If restriction(s) in this Subsection would result in an undeveloped legal parcel, not on Public Trust lands, created prior to the effective date of General Plan 2020, being made unusable in its entirety for any use allowed by the General Plan and this Land Use Code, exceptions to that restriction(s) may be granted through Use Permit approval to allow a reasonable economic use of the parcel, provided that there is no feasible less environmentally damaging alternative, and feasible mitigation measures have been provided to minimize adverse environmental effects (PRC 30233) of the proposed use.

C. Mitigation measures. Appropriate mitigation measures shall be determined during the applicable discretionary review process, except that the Zoning Administrator shall determine appropriate mitigation measures in the event a discretionary review process does not apply.

1. "Net loss." Mitigation measures must result in "no net loss" in area and value of wetlands, at a replacement ratio of from 1:1 to 10:1 as determined by the review authority. Mitigation may consist of creating and maintaining a new wetland of equal or greater biological function and value than the wetland proposed to be filled, restoration of previously degraded wetlands, or enhancement of existing wetland areas. Off site wetland mitigation shall require a higher replacement ratio. For the sole purpose of restoration or enhancement projects, no net loss of area may be acceptable if a net benefit and function in value is achieved at the discretion of Environmental Services.

2. Minimum mitigation requirements. Diking, filling or dredging of a wetland that is otherwise in compliance with this Chapter, shall, at a minimum, require mitigation measures, a monitoring program, and adequate funding.

3. Ongoing stewardship. Dedication of the land identified in the site plan to a public agency, purchase, or other stewardship method which permanently restricts the use of the site to habitat and open space purposes, shall be required. The site shall be dedicated, purchased, or other stewardship agreed upon, and mitigation agreed upon, and mitigation funding shall be provided, prior to any permitted diking or filling.

9.59.070 - Project Review Procedures

All development that may affect an ESHA shall be reviewed in compliance with Sections 9.59.020 "Applicability" and 9.59.040 "Application Requirements" as well as the following procedures, in addition to the other procedures required by this Land Use Code for any required discretionary permit.

A. Initiation. Upon receiving an application for an action subject to discretionary approval, the Zoning Administrator shall determine whether a Biological Assessment is required based on the location of the proposed action with respect to an ESHA.

1. For development outside the Coastal Zone and not requiring any permits other than Building Permits, this determination shall comply with Section 9.72.100 (Zoning Clearance).

2. For development within the Coastal Zone, the determination shall occur as part of Coastal Development Permit approval in compliance with Section 9.72.030 (Coastal Development Permits), or in compliance with Section 9.72.100 (Zoning Clearance) if no Coastal Development Permit is required.

B. Consultation. Prior to approval of an action subject of discretionary review that has the potential to affect an ESHA; the Department shall refer the Biological Assessment to and consult with the following:

1. Environmental Services Department Director.

2. California Coastal Commission (CCC), California Department of Fish and Game (CDFG), North Coast Regional Water Quality Control Board (NCRWQCB), U.S. Army Corps of Engineers (USACOE), U.S. Fish and Wildlife Service (USFWS), National Oceanic Atmospheric Administration (NOAA), or the National Resource Conservation Service (NRCS) as applicable and other affected agencies for review and comment.

3. The City's Wetlands and Creeks Committee or its equivalent;

4. The City shall ask the CCC, CDFG, and NCRWQCB, to review the proposed project's Biological Assessment and to recommend, within 21 days of the request, measures to mitigate ESHA disturbances. This time period may overlap with the environmental review process.

C. Conditions of Approval. The Department shall immediately forward any comments and recommendations to the applicant for their response.

1. A decision by the review authority concerning the boundary, location, current status (function and value) to the ESHA in question, and the proposed project's potential impacts and required mitigation measures shall be based on the substantial evidence in the record and supported by written findings of compliance with Chapter 9.59 of this Code and the General Plan Resource Conservation Element.

2. The Department shall recommend an appropriate bond amount to ensure that the mitigation measures and monitoring are successfully carried out, or in the case of default the City will be able contract for their completion.

9.59.080 - Conservation Easements

The dedication of a conservation easement, or equivalent deed restriction, encompassing the area within an :SP or :WP, shall be required as a condition of approval of any discretionary planning permit, including Design Review, when any portion of the project site falls within an :SP or :WP. The easement may be conveyed to the City, to another governmental agency which shall manage the easement to protect the ESHA's functions, biological productivity, and values or to an appropriate non-profit entity approved by the review authority.

9.59.090 - Findings Required for Project Approval

Discretionary approval for a project affecting an ESHA shall require that the review authority first make the following findings in addition to any other applicable findings required by this Land Use Code.

A. The proposed land use or development is in compliance with the policies of the General Plan, Local Coastal Program and regulations in the Land Use Code.

B. The proposed land use or development will not impair the ecological balance, ecosystem function, biological productivity, and values of the ESHA.

   1. The proposed land use or development will not degrade the structure, composition, function or natural processes of ESHA to a level below that which occurs in the least-disturbed natural ecosystems in the City's Planning Area;

   2. The proposed land use or development has incorporated the ESHA into its site design and does not pose any significant adverse impacts to these resources.

   3. The EBA adopted is sufficient in width to maintain the structure, composition, function and natural processes of the affected ESHA.

   4. Where applicable, the development is a habitat enhancement project.

C. The proposed land use or development is being approved, because there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects and that any affected ESHA shall be maintained, enhanced, and where feasible restored.

9.59.100 - Notice of Protection Combining Zone Overlay

Prior to the effective date of the discretionary approval for a project involving a ESHA, and prior to any action prerequisite to proceeding with a development, the applicant shall cause to be recorded, with the Humboldt County Recorder's Office, a notice declaring the presence of the :SP or :WP combining Zone as applicable on the property. The notice shall be in a form prescribed by the City and shall contain information regarding the location and nature of the :SP or :WP combining Zone overlay, and any applicable restrictions. The notice shall be recorded at the expense of the applicant.

ARTICLE 6

Site Development Regulations

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CHAPTER 9.60 - FLOOD HAZARD MITIGATION STANDARDS

Sections:

9.60.010 - Purpose
9.60.020 - Authority
9.60.030 - Definitions
9.60.040 - Applicability
9.60.050 - Administration
9.60.060 - Permit Requirements
9.60.070 - Standards for Flood Hazard Reduction
9.60.080 - Flood Standard Exceptions
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9.60.010 - Purpose

The provisions of this Chapter are intended to protect the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

A. To minimize expenditure of public money for costly flood control projects;

B. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

C. To minimize prolonged business interruptions;

D. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

E. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

F. To insure that potential buyers are notified that property is in an area of special flood hazard; and

G. To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

9.60.020 - Authority

The California Legislature has in Government Code Sections 65302, 65560 and 65800 conferred upon local government the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. This Chapter also implements regulations to meet Federal Emergency Management Agency (FEMA) requirements for managing flood hazards.

9.60.030 - Definitions

Definitions of the technical terms and phrases used in this Chapter are in Article 10 (Glossary) under "Flood Hazard Management."

9.60.040 - Applicability

A. Basis for establishing areas of special flood hazards. The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in a scientific and engineering report entitled "Flood Insurance Study" for the City of Arcata dated November 5, 1997, and accompanying Flood Insurance Rate Maps (FIRMS), and the Humboldt County Flood Insurance Rate Map Index dated February 8, 1999, and Flood Insurance Study dated August 5, 1986 and all subsequent amendments and/or revisions are hereby adopted by reference and declared to be a part of this Land Use Code, and this Chapter. This Flood Insurance Study is the minimum area of applicability of this Chapter and may be supplemented by studies for other areas which allow implementation of this Chapter and which are recommended to the City of Arcata by the Flood Plain Administrator. The Flood Insurance Study is on file at the Public Works Department of the City of Arcata

B. Compliance with Chapter required. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter, Chapter 9.59 (Environmentally Sensitive Habitat Areas Protection and Preservation) and other applicable regulations. Violations of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City from taking lawful action as is necessary to prevent or remedy any violation.

C. Abrogation and greater restrictions. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

D. Interpretation. In the interpretation and application of this Chapter, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and,

3. Deemed neither to limit nor repeal any other powers granted under state statutes.

E. Warning and disclaimer of liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards, or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Arcata, any officer or employee thereof, the Federal Emergency Management Agency, or State of California, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made in compliance with this Chapter.

9.60.050 - Administration

A. Designation of Flood Plain Administrator. The Public Works Director/City Engineer is hereby appointed to administer and implement this Chapter by granting or denying development permits in accordance with its provisions.

B. Duties and responsibilities of Flood Plain Administrator. The Flood Plain Administrator shall have the following duties and responsibilities.

1. Permit review. The Flood Plain Administrator shall review all development permits to determine that:

   a. The permit requirements of this Chapter have been satisfied;

   b. All other required state and federal permit requirements have been identified;

   c. The site is reasonably safe from flooding; and

   d. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this Chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

2. Response to proposed watercourse alterations. Whenever a watercourse is to be altered or relocated:

   a. Notify adjacent communities and the California Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

   b. Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained or increased.

3. Certifications. Obtain and maintain for public inspection and make available as needed the certifications by Section 9.60.070 (Standards for Flood Hazard Reduction).

4. Interpretations. Make interpretations where needed, as to the location of the boundaries of the areas of special flood hazards. Where there appears to be a conflict between a mapped boundary and actual field conditions, grade and base flood elevations shall be used to determine the boundaries of the special flood hazard area. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation provided in Section 9.60.080 (Flood Standard Exceptions).

5. Base flood elevation data. When base flood elevation data has not been provided in accordance with Section 9.60.040.A (Basis for establishing areas of special flood hazards), the Flood Plain Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state, or other source, in the administration and review process.

6. Enforcement. Take action to remedy violations of this Chapter as specified in this Chapter or other applicable law.

9.60.060 - Permit Requirements

A Development Permit shall be obtained before construction or development within any area of special flood hazard identified in compliance with Section 9.60.040.A (Basis for establishing areas of special flood hazards). Application for a Development Permit shall include: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

A. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

B. Proposed elevation in relation to mean sea level to which any structure will be floodproofed if required in Section 9.60.070.A.4 (Elevation and floodproofing - Nonresidential construction), that is also in compliance with Chapter 9.59 (Environmentally Sensitive Habitat Areas Protection and Preservation).

C. All appropriate certifications required by this Chapter;

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and

E. Documentation of CEQA compliance for all discretionary projects.

9.60.070 - Standards for Flood Hazard Reduction

A. Construction standards. The following standards apply in all areas of special flood hazards.

1. Anchoring.

   a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

   b. All manufactured homes shall meet the anchoring standards of 9.60.070.D (Mobile homes, manufactured homes, and mobile home parks and subdivisions).

2. Construction materials and methods.

   a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

   b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

d. Within Zones AH or AO, adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures are required.

3. Elevation and flood proofing - Residential construction. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed surveyor, and verified by the Building Inspector, to be properly elevated. The certification and verification shall be provided to the Flood Plain Administrator:

a. New construction and substantial improvement of any structure in Zone AH or AO shall have the lowest floor, including basement, elevated at least one foot higher than the flood depth number specified on the FIRM, or as determined by the Flood Plain Administrator. Outside the AH or AO zones prone to flooding, the Flood Plain Administrator will determine a minimum finish floor elevation for development.

b. All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered civil engineer or licensed surveyor, or meet or exceed the following minimum criteria:

(1) Either a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; or

(2) Be certified to comply with the guidelines for engineered openings in FEMA Technical Bulletin 1-93.

c. Manufactured homes shall also meet the standards in Subsection D.

4. Elevation and flood proofing - Nonresidential construction. Nonresidential construction, new or substantial Improvements, shall either be elevated at least one foot above the base flood elevation together with attendant utility and sanitary facilities, or:

a. Be flood proofed below the elevation specified in Subsection A.3, so that the structure is watertight with walls substantially impermeable to the passage of water; and

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, and;

c. Be certified by a registered civil engineer or licensed surveyor that the standards of this subsection are satisfied. The certification shall be provided to the Flood Plain Administrator.

B. Utilities. All new and replacement water supply and sanitary sewage systems shall be designed to prohibit the infiltration of flood waters into the system and discharge from systems into flood waters.

C. Subdivisions.

1. Each Tentative Map shall identify the flood hazard area and the elevation of the base flood, and the proposed subdivision shall be designed to:

a. Provide adequate drainage to reduce exposure to flood hazards; and

b. Minimize flood damage to all facilities and structures, including public utilities and facilities including sewer, gas, electrical and water systems.

2. Each Final Map and Parcel Map shall provide the elevation of proposed structures and pads. If the site is filled above the base flood elevation, the final pad elevations shall be certified by a registered civil engineer or licensed surveyor and provided to the Flood Plain Administrator. Each development shall show that flood discharge exiting the development after construction is equal to, and preferably less than the flood discharge at the location prior to the development.

D. Mobile homes, manufactured homes, and mobile home parks and subdivisions.

1. Placement of unit. All new, substantially improved, and replacement manufactured homes, and additions to manufactured homes, shall be elevated so that the lowest floor is one foot above the base flood elevation in all manufactured home parks.

The following standards are required for (a) manufactured homes not placed in manufactured home parks or subdivisions, (b) new manufactured home parks or subdivisions, c) expansions to existing manufactured home parks or subdivisions, and (d) repair, reconstruction, or improvements to existing manufactured home parks or subdivisions that equal or exceed 50 percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.

a. Adequate surface drainage and access for a hauler shall be provided.

b. All manufactured homes shall be placed on pads or lots elevated on compacted fill or on pilings so that the lowest floor of the manufactured home is one foot above the base flood level.

(1) Each lot shall be large enough to permit steps;

(2) The pilings shall be placed in stable soil no more than ten feet apart, and

(3) Reinforcement shall be provided for pilings more than six feet above the ground level.

c. No manufactured home shall be placed in a floodway.

2. Anchoring. Anchoring of all manufactured homes shall be designed to comply with the Department of Housing and Community Development Manufactured Home Construction and Safety Standards. All manufactured homes and additions to manufactured homes shall be securely anchored to a permanent foundation system to resist flotation, collapse, or lateral movement, and elevated so that the lowest floor of the manufactured home is one foot above the base flood elevation.

3. Certification required. Upon completion of construction in compliance with this Subsection D., the elevation of the lowest floor shall be certified by a registered civil engineer or licensed surveyor, and verified by the Building Inspector, to be properly elevated. The certification and verification shall be provided to the Flood Plain Administrator.

E. Recreational vehicles.

1. Each recreational vehicle placed on a site within Zones A1-30, AH, and AE on the Flood Insurance Rate Map shall either:

   a. Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions), or

   b. Meet the permit requirements of Section 9.60.060 (Permit Requirements), and the elevation and anchoring requirements for manufactured homes in Subsection D.

2. A recreational vehicle placed on sites within Zones VI-30, V and VE on the Flood Insurance Rate Map shall comply with the requirements of Subsections F.1, and G.

F. Floodways. Within the areas of special flood hazard established in Section 9.60.040.A (Applicability - Basis for establishing areas of special flood hazards), are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered civil engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. If the requirements of this Subsection F. are satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of this Chapter.

G. Coastal High Hazard Areas. Unless exempted by General Plan: 2020 policies PS-4b, and PS-4g, it is the general policy of the City not to allow any development in the area identified as Coastal Flooding (V Zones) on the FIRM Map.

H. Exceptions. The improvement, repair, or rehabilitation of an existing residential building or structure, or an existing nonresidential building or structure built prior to May 2, 1983, where the cost of the improvement, repair, or rehabilitation does not equal or exceed 50 percent of the replacement cost of the structure shall not be subject to the standards and requirements of this Section. In all circumstances, exceptions may be made only in accordance with the requirements in Section 9.60.080 (Flood Standard Exceptions), in compliance with Section 60.6 of the National Flood Insurance Program Regulations, Federal Emergency Management Agency, Federal Insurance Administration and in California Administrative Code Title 14 for Coastal Zone Areas.

9.60.080 - Flood Standard Exceptions

Exceptions to Section 9.60.070 (Standards for Flood Hazard Reduction) may be granted by the Flood Plain Administrator in compliance with the following provisions.

A. Notices and hearings. The processing of a Flood Standard Exception shall occur in compliance with the provisions of Section 9.72.080 for Minor Use Permits.

B. Factors to be considered. In reviewing and deciding upon applications for Flood Standard Exceptions, the Flood Plain Administrator shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and the:

1. Danger that materials may be swept onto other lands to the injury of others;

2. Dangers to life and property because of flooding or erosion damage;

3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

4. Importance of the services provided by the proposed facility to the community;

5. Necessity to the facility of a waterfront location, where applicable;

6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. Compatibility of the proposed use with existing and anticipated development;

8. Relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

9. Safety of access to the property in time of flood for ordinary and emergency vehicles;

10. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,

11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

C. Exception criteria. Generally, a Flood Standard Exception may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the issues listed in Subsections B.1 through B.11 have been fully considered. As lot size increases beyond one-half acre, the technical justification required for issuing the Exception increases.

1. An Exception may be issued for the repair, rehabilitation, or restoration of a historic structure upon a determination that the proposed repair, rehabilitation, or restoration will not preclude the structure's continued designation as an historic structure and the exception is the minimum necessary to preserve the historic character and design of the structure.

2. An Exception shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

3. An Exception shall only be issued upon a determination that the exception is the minimum necessary, considering the flood hazard, to afford relief.

4. An Exception shall only be issued upon:

   a. A showing of good and sufficient cause;

   b. A determination that failure to grant the exception would result in exceptional hardship to the applicant; and

   c. A determination that the granting of a exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of, the public, or conflict with existing local laws or ordinances.

5. An Exception may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the above provisions of this Subsection C. are satisfied, and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

D. Conditions of approval. Upon consideration of the factors in Subsection C., and the purposes of this Chapter, the Flood Plain Administrator may attach conditions to the granting of exceptions as it deems necessary to further the purposes of this Chapter.

E. Notice to applicant. An applicant to whom a Flood Standard Exception is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the Flood Plain Administrator in the office of the Humboldt County Recorder.

F. Records. The Flood Plain Administrator shall maintain the records of all appeal actions, including justification for their issuance, and report any exceptions to the Federal Insurance Administration upon request.

9.60.090 - Appeal

Decisions of the Flood Plain Administrator in compliance with this Chapter may be appealed to the City Council in compliance with Chapter 9.76 (Appeals). In reviewing an appeal, the City Council shall consider the factors in Section 9.60.080.B (Factors to be considered).

CHAPTER 9.62 - GEOLOGIC HAZARD REVIEW

Sections:

9.62.010 - Purpose
9.62.020 - Applicability - Geologic Hazards Land Use Matrix
9.62.030 - Report Contents
9.62.040 - Development Standards
9.62.050 - Alquist-Priolo Earthquake Fault Zone

9.62.010 - Purpose

This Chapter provides procedures for the filing, processing, and approval or disapproval of applications for Geologic Hazard Review, to protect the health, safety, and welfare of the residents of the City by minimizing the risk from carrying out development in areas subject to geologic and/or seismic hazards.

9.62.020 - Applicability - Geologic Hazards Land Use Matrix

The Geologic Hazards Land Use Matrix in Table 6-1 shall apply throughout the City. Engineering geologic and/or soils engineering reports shall be required for new development in compliance with the schedule identified in the matrix.

A. 'R1' report requirements. An engineering geologic report and a soils engineering report shall be prepared for the classes of development and hazard areas indicated by 'R1' in the Geologic Hazards Land Use Matrix.

B. 'R2' report requirements. An engineering geologic report shall be prepared for the classes of development and hazard areas indicated by an 'R2' in the Geologic Hazards Land Use Matrix.

C. 'D' discretionary report requirements. For the classes of development and hazard areas indicated by a 'D' in the Geologic Hazards Land Use Matrix, the City Engineer and/or Building Official, after consultation with the Zoning Administrator, shall use the considerations listed below in Subsection C.1 (Criteria for requiring a report), to determine whether or not a report is required. Conditions which typically indicate that a report should be required are identified in Subsection C.2 (Soils Engineering Report) and C.3 (Engineering Geology Report), below.

Table 6-1 - Geologic Hazard Land Use Matrix

Building Type/ Land Use	Earthquake Shaking Hazard	Fault Rupture Hazard (1)		Slope Stability Hazard (2)				Liquefaction Potential (3)		
				Low			High	Low		High
		SSZ	PAF	V	IV	III	II & I	III	II	I
Critical Facilities										
Hazardous substance storage, reservoirs, natural gas storage tanks										
Hospitals, fire and police stations, emergency control centers, power plants, power and communications substations, schools, theaters	R1	R2	R2	D	D	R1	R1	R1	R1	P
Auditoriums, hotels, large motels, major office buildings, high density residential										
Non-Critical Facilities - Moderate Risk										
Residential structures on existing lots with footing loads greater than typical two-story wood frame dwellings, or residential structures with three stories or more	D	R2	D	D	D	R2	R1	D	R1	R1
Major subdivisions	D	R2	R2	D	R2	R1	R1	D	R1	R1
Heavy industrial	R2	R2	R2	D	R2	R2	R1	R1	R1	R1
Non-Critical Facilities - Low Risk										
Multi-family structures larger than 4-plexes	D	R2	D	D	D	R2	R1	D	R1	R1
Minor subdivisions	D	R2	D	D	D	R2	R1	D	R1	R1
Light industrial, warehousing, commercial	D	R2	D	D	D	R2	R2	D	R1	R1
Residential wood frame structures two stories or less on existing lots	D	D	D	D	D	R2	R2	D	D	D

Notes:

P Development prohibited.

R1 Engineering geologic report and soils engineering report required. Engineering geologic report shall be prepared by a Certified Engineering Geologist, certified and licensed by the State of California. Soil engineering report shall be prepared by a California licensed Registered Civil Engineer with appropriate knowledge and experience, or by a California Certified Engineering Geologist with appropriate geotechnical knowledge and experience.

R2 Engineering geologic report required. The report shall be prepared by a California Registered Geologist with appropriate geotechnical knowledge and experience.

D Report requirement is left to the discretion of the City Building Official.

(1) SSZ refers to the Alquist-Priolo Special Study Zone; PAF means "Potentially Active Fault."

(2) See the Slope Stability Hazard Map on file with the Department.

(3) See the Liquefaction Potential Map on file with the Department.

In lieu of making a determination, the City Engineer and/or Building Official, after consultation with the Zoning Administrator, may choose to accept a statement as described in Subsection D. (Report wavier).

1. Criteria for requiring a report. Considerations in determining whether a report is required shall include:

a. A site visit;

b. A review of geologic maps and reports covering the area;

c. An evaluation of the potential of the development to adversely affect adjacent property or improvements;

d. Consideration of the degree of public exposure to the risk;

e. A consideration of the size and scale of the proposed development;

f. For development within the Coastal Zone, a consideration of certified Local Coastal Plan policies; or

g. The proposed project is not exempt from reporting requirements in compliance with Subsection E. (Projects exempt from reporting requirements), below.

2. Soils engineering report. A soils engineering report is indicated when one or more of the following conditions exist or are proposed:

   a. Depth (or height) of cut or fill is three feet or greater;

   b. Fill is used to support structural footings;

   c. Engineered cut or fill is required;

   d. Soils are or may be subject to significant shrink-swell; or

   e. The project area is underlain by material that may be subject to settlement or subsidence.

3. Engineering geology report. An engineering geology report is indicated when one or more of the following conditions exist or are proposed:

   a. Finish cut or fill faces with vertical heights in excess of 10 feet;

   b. On-site natural slopes steeper than five horizontal to one vertical;

   c. Existing cut slopes having a vertical height in excess of 10 feet;

   d. Existing stream banks in excess of 10 feet;

   e. Significant existing or suspected seismic hazards;

   f. Areas that are underlain by landslides or soil creep or by rock material susceptible to landslide or soil creep activity;

   g. Areas that are underlain by materials that may be subject to settlement or subsidence; or

   h. Areas subject to drifting or loose sand.

D. Report waiver. The R1 and R2 report requirements listed in the notes to Table 6-1 above may be waived or the contents modified by the City Engineer and/or Building Official when:

1. An adequate geologic and/or soil assessment at a useable scale already exist for similar project measures on the site proposed for development.

2. Reports are not indicated under the criteria listed in Subsection C., above.

3. A geologist or engineer, according to the type of report required in compliance with Section 9.62.020.C above, submits a statement that a report is not necessary with supporting reasons and any appropriate recommendations.

E. Projects exempt from reporting requirements.

1. Alterations, additions, or repairs to an existing structure; provided, the aggregate value of the work does not exceed 50 percent of the replacement cost of the existing structure and does not adversely affect the structural integrity of the existing structure.

2. Values shall be determined as "Replacement in Kind" as defined in the California Building Code. No change shall be allowed in use, character, or occupancy, which results in the conversion of a structure from one not intended for human occupancy to one which is so intended, unless the structure complies with the provisions of the Alquist-Priolo Earthquake Fault Zoning Act.

9.62.030 - Report Contents

A. Engineering geologic report.

1. The above required engineering geologic reports, 'R1' and 'R2' shall provide a geological reconnaissance and evaluation of the project site and surrounding terrain. The degree of analysis should be appropriate to the degree of potential risk presented by the site and the magnitude of the proposed project.

2. Reports shall be prepared in compliance with the California Geological Survey (CGS) Note #44, "Recommended Guidelines for Preparing Engineering Geology Reports." CGS Notes #37, #43 and #49 shall be utilized as applicable when seismic or fault rupture hazards are identified as concerns.

3. In citing the Notes, it is not the intent of the City to seek lengthy dissertations on the area geology, but rather to provide uniform guidelines to serve as checklists with points to be discussed as applicable.

B. Soils engineering report.

1. The above required soils engineering report shall describe the nature and/or layout of the proposed development. The report shall include the locations and logs of test borings and percolation test results, if on-site sewage disposal is proposed.

2. The report shall delineate areas or issues of concern which require additional engineering or geologic evaluation. These reports shall, as a minimum, be prepared in compliance with the California Building Code Appendix Chapter 33, as applicable.

C. Consultation. Should it become apparent that an adequate development or subdivision design and/or building structural solution requires additional geologic input, it is incumbent upon the project engineer to consult a registered geologist. It is incumbent upon the project geologist to recommend that a soils engineering report shall be prepared when it becomes apparent that soils mechanics analyses are needed.

D. Supplementary information for reports required for development in the Coastal Zone.

1. Historic, current, and foreseeable shoreline erosion, including investigation of recorded land surveys in addition to the use of historic maps and photographs, where available and possible changes in shoreline configuration and sand transport;

2. Ground and surface water conditions and variations, including hydrologic changes caused by the development (e.g., introduction of sewage effluent and irrigation water to groundwater systems; alterations in surface drainage);

3. Potential erodibility of the site and mitigating measures to be used to ensure minimized erosion problems, both during and after construction (e.g., drainage and landscaping design);

4. Detailed mitigation measures or alternative solutions for avoiding potential impacts; and

5. Professional conclusions as to whether the project can be designed so that it would neither be subject to nor contribute to significant geologic instability throughout the life span of the project.

E. Qualifications of preparers. The engineering geologic report shall be prepared by a State licensed certified engineering geologist. The soils engineering report shall be prepared by a State licensed registered civil engineer having geotechnical knowledge and experience or by a State licensed certified engineering geologist having geotechnical knowledge and experience.

9.62.040 - Development Standards

A. Avoid significant geologic hazards. The applicant shall either provide additional information as recommended by the geologic and/or soils report, or modify the proposed development to avoid identified areas of significant geologic hazard. The proposed project shall be sited, designed, and constructed in compliance with the recommendations of the report(s) in order to minimize risk to life and property on the project site and for any other affected properties.

B. California Building Code. Each project shall be constructed in compliance with California Building Code (CBC) Earthquake Regulations, as a minimum. As referred to in the CBC, the seismic zone boundaries shall be defined as follows: Seismic Zone 4 applies south and west of the Grogan Fault. The Grogan Fault is located approximately 15 miles northeast of Arcata.

C. Coastal Zone standards. Within the Coastal Zone, the following shall also apply:

1. Developments shall be sited and designed to minimize stability and structural hazards for their expected economic life spans while minimizing alteration of natural land forms;

2. Bluff and shoreline developments (including related storm run-off, irrigation, wastewater disposal and other activities and facilities accompanying the development) shall not create nor contribute significantly to problems of erosion or geologic instability on the site or non-surrounding geological hazardous areas;

3. Alteration of shoreline features and bluff tops, faces, or bases by excavation or other means shall be minimized. Retaining walls shall be allowed only to stabilize slopes, not for sea walls.

9.62.050 - Alquist-Priolo Earthquake Fault Zone

A. Purpose. The purpose of the Alquist-Priolo Earthquake Fault Zone regulations is to determine potential surface fault rupture hazards and minimize damage during an earthquake event. This Section addresses geologic reporting requirements, development limitations, exemptions and project review procedures to satisfy the State mandated Alquist-Priolo Earthquake Fault Zoning Act.

B. Maps. The maps developed by the State which show traces of active faults and establish Earthquake Fault Zones and the Policies and Criteria of the Alquist-Priolo Earthquake Fault Zoning Act are hereby declared to be a part of this Section. Maps prepared for the Seismic Safety Element of the General Plan are also declared to be a part of this Section.

C. Compliance. The construction of subdivisions, land divisions, or structures near a known active fault and regulated by this Development Code shall only be allowed as identified in this Section.

D. Scope.

1. The provisions of this Section shall apply at the time of filing an application for any subdivision of land subject to the Subdivision Map Act which contemplates the eventual construction of structures for human occupancy.

2. These provisions shall also apply to applications for Planned Development Permits, Use Permits, site development permits, or Building Permits for any development and structures intended for human occupancy. This Section is not intended to supplant the geologic investigations required by Chapter 33, California Building Code.

E. Geologist. For the purpose of this Section, a geologist shall be a registered geologist, licensed by the State Board of Registration for Geologists and Geophysicists to practice geology in California.

F. Known active faults. For the purpose of this Section, known active faults are faults which have been active during the Holocene Age (approximately the last 11,000 years).

G. Construction limitations. No structure to be used for human occupancy shall be constructed over or within 50 feet of the trace of a known active fault which is shown on maps maintained by the City.

H. Trace of a known active fault. The locations or non-existence of the trace of a known active fault shall be determined by the geologist preparing the geologic report for the site(s), when the proposed subdivision or building site is within a study zone as designated by the Alquist-Priolo Earthquake Fault Zoning Act or the Seismic Safety Element of the General Plan.

I. Subsurface exploration.

1. In cases when a geologist has not otherwise made an accurate evaluation as determined by City review, the City shall require the geologist to perform subsurface exploration for the purpose of determining the absence or presence of a known active fault.

2. The subsurface exploration shall be required if a lack of distinguishable fault features in the vicinity prevents the geologist from determining by a site examination, review of aerial photographs, or by other means, that the fault trace does or does not underlie or exist within 50 feet of the proposed structure. Subsurface exploration shall be to a sufficient depth to verify faulting within the Holocene Age (approximately the last 11,000 years).

3. The City may require a more extensive investigation by the geologist as evidence to the absence of a known active fault trace before the issuance of a permit for Group A, B, E, F, H, I, M, R, and S occupancies in the City's most recently adopted California Building Code.

4. A State licensed geologist, within or retained by the City, shall evaluate the required geologic reports and advise the body having jurisdiction and authority.

J. Geologic/seismic report requirements. All reports submitted for projects within an active fault zone shall contain all the information identified on pages 22 - 24 in Fault Rupture Hazard Zones in California, Special Publications #42 (March 1980) issued by the California Division of Mines and Geology, or the most recent equivalent. Changes to these requirements can be made by the City's geologist with the consent of the Zoning Administrator.

K. Exceptions. The provisions of this Section for geologic/seismic reporting requirements do not apply to:

1. Structures not intended for human occupancy. A structure for human occupancy is a structure as defined by the California Building Code, which is expected to have a human occupancy rate of more than 2,000 person hours per year.

2. A single-family wood-frame or steel-frame dwelling not exceeding two stories when the dwelling is not part of a development of four or more dwellings. A mobile home whose body width exceeds eight feet shall be considered to be a single-family wood-frame dwelling not exceeding two stories.

   A "single-family dwelling" may include a "second dwelling unit" as defined by this Development Code, as well as attached or detached accessory structures associated with a single-family residence, unless State law provides specific language regulating the units with respect to earthquake fault zone requirements. The structures shall meet the other limitations of this Subparagraph.

   Construction of dwellings shall not be allowed over a previously identified "Known Active Fault" Trace.

3. Alterations, additions, or repairs to an existing structure provided that aggregate value of the work does not exceed 50 percent of the replacement cost of the existing structure and does not adversely affect the structural integrity of the existing structure.

   Values, as used in this Subparagraph, shall be determined as “Replacement in Kind” as defined in the California Building Code. No change shall be allowed in use or character or occupancy, which results in the conversion of a structure from one not intended for human occupancy to one which is so intended, unless the structure complies with the provisions of the Alquist-Priolo Earthquake Fault Zoning Act.

4. Alterations, additions, or repairs to exempt structures.

5. Decorative walls, fences, non-occupancy accessory uses, swimming pools, and minor work of a similar nature. New improvements of this type shall not be included in the valuation totals for Subsection K.3, above.

L. Waivers.

1. Section 2523 of the Alquist-Priolo Earthquake Fault Zoning Act states "... If the city or county [having jurisdiction over the lands] finds that no undue [fault] hazard ... exists, the geologic report on the hazard may be waived, with approval of the State Geologist." The location of the proposed development or structure may be approved following the waiver.

2. The State geologist may approve waiver requests only after receiving the State Waiver Form (Appendix D; Fault Rupture Hazard Zones in California, Special Publication #42, page 25) completed by the City geologist and the property owner, and accompanied by supporting statements and data in writing that would justify approval of the waiver request.

M. Design requirements.

1. Structures within an active fault zone and areas indicated by the Seismic Safety Element of the General Plan shall be designed to resist the earthquake forces prescribed by the California Building Code.

2. Construction activities shall also incorporate the recommendations identified in the geological and/or geologic/seismic hazards report pertaining to ground ruptures, landslides, liquefaction, or settlement due to seismic compaction, et cetera.

N. Maps of active faults. The City shall maintain and make available to the public, maps showing the location of known active faults. When geologic investigations, mapping, aerial photographs, or other acceptable data showing the presence, absence or more precise location of a known active fault are made available to the City, the reports shall be submitted to the State geologist.

O. Appeals. Any person aggrieved by the decision of any City official, agency, board, or commission rendered in compliance with the Alquist-Priolo Earthquake Fault Zoning Act, this Development Code, or the Seismic Safety Element of the General Plan may appeal the decision in compliance with Chapter 9.76 (Appeals).

P. Fees.

1. The City shall require the project applicant to pay all costs for the City to contract for the review of the earthquake fault zone report by a licensed geologist, mailing fees, duplication costs, and public notification expenses.

2. The City shall provide a written estimate to the project applicant for the cost of the review (based on information from the City's retained geologist plus related expenses). The applicant shall pay the full estimate at the time of project submittal, with a refund of surplus funds to be made after the appeal period is completed.

CHAPTER 9.64 - GRADING, EROSION, AND SEDIMENT CONTROL

Sections:

9.64.010 - Purpose
9.64.020 - Applicability of Grading Regulations
9.64.030 - Definitions
9.64.040 - Incorporation of California Building Code (CBC)
9.64.050 - Grading Permit Requirements
9.64.060 - Grading Permit Application Filing and Processing
9.64.070 - Grading Standards
9.64.080 - Completion of Grading

9.64.010 - Purpose

This Chapter provides procedures and minimum standards for the regulation of grading activities within the City. These provisions are intended to promote public safety and welfare by preventing unreasonable or unnecessary erosion and sediment production and related degradation of natural resources and the City's stormwater drainage systems.

9.64.020 - Applicability of Grading Regulations

A. Compliance required. The provisions of this Chapter apply to all excavation, fill, or other grading activities occurring within the City. It shall be unlawful and a violation of this Land Use 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 Land Use Code, a grading permit when required by Section 9.64.050 (Grading Permit Requirements), and complying with all applicable grading standards of this Chapter; 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. Project approval required prior to grading. 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 (Subdivisions).

C. Hazards. Whenever the City Engineer determines that any excavation, embankment, or fill on private property constitutes a hazard to public safety, endangers property, or adversely affects 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.

D. Enforcement. The provisions of this Chapter shall be enforced by the Building Official and City Engineer. The engineer for a project may be required to inspect work and certify compliance with the approved grading plan, erosion and sediment control plan, and the provisions of this Chapter.

E. Violations and penalties. Violations of the provisions of this Chapter shall be enforced in compliance with Municipal Code Title I, Chapter 3. Violations may also be subject to stop work orders, corrective action orders, and/or the suspension of issuance of occupancy permits.

9.64.030 - Definitions

Definitions of the technical terms and phrases used in this Chapter are in Article 10 (Glossary) under "Grading."

9.64.040 - Incorporation of California Building Code (CBC)

The provisions of this Chapter supplement and are in addition to the requirements of the latest edition of the California Building Code Appendix Chapter 33 (Excavation and Grading). Each project that includes grading shall also comply with the applicable requirements of CBC Chapter 33.

9.64.050 - Grading Permit Requirements

A. General requirements.

1. Except as provided in this Chapter, no person shall commence or perform any grading, ground-disturbing, clearing of vegetation, or other land-disturbing activity without having first obtained a grading permit from the Building Official.

2. In geologic/seismic safety hazard areas, areas identified as "medium risk" and "high risk" landslide hazard areas, and areas identified as having a high liquefaction potential, as shown on the Public Safety and Seismic Safety Element Maps of the General Plan, no grading or clearing of vegetation shall commence without obtaining approval by the Community Development Director, the Director of Environmental Services, and the City Engineer, in addition to the grading permit required by Subsection A.1.

B. Exceptions. Except in the areas noted in Subsection A.2 above, a grading permit shall not be required if the work meets any of the following conditions and meets the requirements of Chapter 9.59 (Environmentally Sensitive Habitat Areas Protection and Preservation):

1. Clearing of vegetation does not exceed 1,000 square feet in area, or does not expose or disturb soil surface;

2. Cultivation of land for agricultural purposes, provided that normal and customary agricultural practices are followed to minimize potential erosion;

3. Grading associated with timber harvesting that has been authorized in compliance with regulations of the California Department of Forestry and Fire Protection;

4. Refuse disposal sites controlled by regulations of other agencies;

5. Excavations for wells or tunnels or utilities;

6. An excavation does not exceed four feet in vertical depth at its deepest point, measured from the original surface, and does not exceed 200 square feet in area;

7. A fill that does not exceed three feet in vertical height at its highest point, measured from the natural ground surface, and does not cover more than 200 square feet;

8. Exploratory excavations under the direct supervision of soils engineers or engineering geologists which do not exceed an aggregate area of 200 square feet;

9. An excavation below finished grade for basements and footings of a building if authorized by a valid building permit. This exception does not affect the requirement of a grading permit for any fill made with the material from the excavation; or

10. Excavations for cemetery graves.

C. Grading in geologic hazard areas. All grading located in a geologic hazard area shown on the Public Safety and Seismic Safety Element Maps of the General Plan shall be subject to Geologic Hazard Review in compliance with Chapter 9.62 (Geologic Hazard Review). A report or waiver required in compliance with Chapter 9.62 shall be included with any grading permit application. Final Soil Grading and Geologic Grading Reports shall also be required for all grading activities in these areas, except that borings and related analyses will be sufficient in liquefaction hazard areas.

D. Grading and clearing in the Coastal Zone. Proposed grading in the Coastal Zone shall require Coastal Development Permit approval in compliance with Chapter 9.59 (Environmentally Sensitive Habitat Areas Protection and Preservation) and Section 9.72.030 (Coastal Permits), except as provided for in Subsection 9.64.050.B, 1, 2, 6, 7, 8, or 9.

E. Compliance with CEQA. All grading activities shall comply with the California Environmental Quality Act (CEQA) and Chapter 9.78 (Environmental Impact Assessment).

F. Other permits may be required. Nothing in this Chapter shall eliminate the need for development 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 Land Use Code, or required by State or Federal agencies.

G. Issuance of other City permits. Each City department, official and employee that is vested with the duty or responsibility to issue permits or licenses shall comply with the provisions of this Chapter and shall issue no permit or license for a use, structure or purpose where they would conflict with the provisions of this Chapter, or for a site where a violation of this Chapter exists.

H. Submittal requirements. An application for a grading permit shall include a completed City application form and the following materials, each of which is further described in a Departmental handout:

1. A site map and report;

2. A grading plan;

3. An erosion and sediment control plan, except that a short form may be submitted if all of the following conditions are met:

   a. The existing or natural slope is less than 15 percent;

   b. The total area of grading is less than one-quarter acre; and

   c. The proposed grading is not within a creek zone or wetland, and springs are not present.

4. A revegetation plan if vegetation removal exceeds 1,000 square feet in area.

9.64.060 - Grading Permit Application Filing and Processing

A. Application requirements. An application for a grading permit shall include a completed City application form, the information and materials required by the Department, and the required filing fee. The application shall be filed with the Building Official.

B. Application review and approval. Upon receipt of a complete application, the application shall be reviewed by the Building Official. In considering an application, the Building Official shall refer the application materials to the Community Development, Environmental Services, and Public Works Departments and to other agencies for review and recommendations. The final determination as to the adequacy of the application materials and compliance of the proposed grading with the requirements of this Chapter shall be by the Building Official with the consent of the City Engineer and the Environmental Services Director.

C. Approval criteria. Grading permit and/or erosion and sediment control plan approval shall require that the Building Official first determine that the project is in substantial compliance with the provisions of this Chapter, Design Review recommendations on revegetation plans, and any other applicable provisions of City law, policy, and environmental review.

D. Terms and conditions of grading permits. In approving an application, the Building Official or City Engineer may require any revisions or conditions as are necessary to achieve compliance with the requirements of this Chapter. The following terms and conditions shall be attached to all grading permits.

1. All soil erosion and sediment control measures shall be implemented in strict compliance with this Chapter and in compliance with the approved erosion and sediment control plans.

2. All erosion and sediment control measures shall be adequately maintained by the permittee for a period of three years or until the site is stabilized as determined by the City.

3. If the City determines that the work does not comply with the provisions of the approved erosion and sediment control plan or with the provisions of this Chapter, the Building Official may issue a Stop Work Order stopping all work until such time as compliance is ensured.

4. The costs of any remedial work determined by the Building Official or City Engineer to be necessary to protect completed work or to prevent damage shall be the responsibility of the permittee.

E. Appeals. A decision in compliance with this Chapter may be appealed to the Planning Commission in compliance with Chapter 9.76 (Appeals).

9.64.070 - Grading Standards

All grading, other land-disturbing activities, grading plans, revegetation plans, and erosion and sediment control plans shall comply with the standards in this Section and to any additional applicable standards in Chapters 9.52 (Hillside Development) and 9.59 (Environmentally Sensitive Habitat Areas Protection and Preservation).

A. General standards. All grading or other land-disturbing activities and erosion and sediment control plans shall comply with the following general principles.

1. The design, scope, and location of the proposed grading shall be compatible with adjacent areas and should result in minimal disturbance of the terrain and natural land features.

2. The grading shall preserve, match, or blend with the natural contours and undulations of the land.

3. Whenever practicable, trees and native vegetation should be retained to stabilize hillsides, retain moisture, reduce erosion, siltation and nutrient run-off, and to preserve the natural scenic beauty of the area.

4. Scars from cuts and fills should be minimized; the amount of cuts and fills should be reduced and sharp angles at the top and sides of all necessary cut and fill slopes shall be rounded off, and/or a retaining wall acceptable to the City shall be constructed. Where a cut or fill slope occurs between two lots, the slope should normally be made a part of the downhill lot.

5. Geologic hazards and adverse soil conditions shall be mitigated.

6. All cleared slopes in cuts and fills and other areas vulnerable to erosion shall be stabilized.

7. Construction, clearing of vegetation, or disturbance of the soil shall be limited to areas of proven stability.

8. Sediment or other material deposited off the site shall not exceed that which would have been deposited if the land had been left in its natural state.

9. The natural geologic erosion of hillsides, slopes, graded areas, cleared areas, filled areas, or stream banks should not be exceeded.

10. New or modified erosion and sediment control techniques may be used provided there is mutual agreement between the City and permittee that the technique meets the intent of the erosion and sediment control plan and this Chapter.

B. Sediment control standards.

1. Sediment being transported by runoff generated from the site shall be retained on-site through the use of sediment basins, silt traps, or similar measures.

2. All subsurface flows and surface runoff shall be contained and dispersed at non-erosive velocities into the common natural watercourse of the drainage area.

3. Concentration of runoff shall only be permitted in swales or watercourses.

4. In order to prevent polluting discharges from occurring, approved erosion and sediment control devices shall be required for all grading and filling. Control devices and measures which may be required include, but are not limited to, the following:

   a. Energy dissipating devices to reduce the velocity of runoff water; and

   b. Sediment controls such as sediment debris basins and sediment traps. Any trapped sediment shall be removed to a disposal site approved by the permit-issuing authority.

5. Temporary seeding and mulching or other City approved method shall be required once an area is denuded for fourteen days after October 1.

6. Mud shall be prevented from being tracked onto the public roadway or rights-of-way by either:

   a. Travel over a temporary gravel construction entrance;

   b. Washing off vehicle tires before entering a public road; or

   c. Other City approved method.

7. All existing or newly-installed storm drainage structures shall be protected from sediment clogging by providing inlet protection and maintenance for any drains.

8. A vegetative barrier shall be retained around property boundaries.

C. Standards for revegetation.

1. A permanent vegetative cover shall be established on denuded areas not otherwise stabilized.

2. Permanent vegetation shall not be considered established until a ground cover is achieved which is mature enough to control soil erosion satisfactorily and to survive severe weather conditions.

3. The type of plants used shall: be self-sustaining, require little or no maintenance, and not increase the fire hazard.

4. Native plant species are encouraged.

D. Slope construction standards.

1. Slopes, both cut and fill, shall not be steeper than two run to one rise (2:1), unless a thorough geological and engineering analysis indicates that steeper slopes are safe and erosion and sediment control measures are specified.

2. Long or steep slopes should be terraced at regular intervals to slow runoff and provide a place for sediment to settle out.

E. Standards for protection of watercourses and drainage inlets.

1. Fills shall not encroach on natural watercourse or constructed channels except as specified in Chapter 9.59 (Environmentally Sensitive Habitat Areas Protection and Preservation).

2. Grading equipment shall not cross or disturb creek zones.

3. Excavated materials shall not be deposited or stored in or alongside creek and wetland protection areas where the materials can be washed away by high water or storm runoff.

4. Any storm drain inlet protection measure which completely blocks the drain entrance shall not be used. Waddles, straw bales, filter fabric wraps, or other City approved method shall be used in a manner that does not cause erosion, or flooding into a roadway.

F. Standards for disposal of excavated materials.

1. Some or all of the topsoil on the site shall be stockpiled for use on areas to be revegetated.

2. Stockpiled soil shall be covered, and located so that if any erosion occurs, it would not migrate off-site.

3. Stockpiled soil shall be located sufficient distance from streams or drainageways so that surface runoff cannot carry sediment downstream.

4. Trenches and pits shall be promptly backfilled and compacted to reduce the risk of erosion and sediment.

5. Mulch or other protective coverings shall be applied on stockpiled material or bare soils with an area larger than 200 square feet which will be exposed through the winter season.

6. Excavated material not used at the site shall be disposed of at a location approved by the City.

9.64.080 - Completion of Grading

Upon completion of the rough grading work and at the final completion of the work, the Building Official or City Engineer may require the following reports:

A. An As-Graded Plan prepared by the civil engineer including a certification that the work was done in accordance with the final approved grading plan.

B. A Soil Grading Report prepared by the soil engineering geologist including a certification as to the adequacy of the site for the intended use and as affected by geological features.

CHAPTER 9.66 - URBAN RUNOFF POLLUTION CONTROL

Sections:

9.66.010 - Purpose
9.66.020 - Urban Runoff Water Quality and Discharge Management
9.66.030 - Site Development and Maintenance Standards
9.66.040 - Urban Runoff Mitigation Plan Requirements
9.66.050 - Drainage Structure Stenciling
9.66.060 - Pollution Prevention Agreements
9.66.070 - Project Site Best Management Practices

9.66.010 - Purpose

Recognizing the health and safety benefits of clean water, the purpose of this Chapter is to ensure that activities within Arcata add no new pollutants to waterways and reduce present pollutant levels and sediments which are carried to our area and regional waterways through stormwater runoff. The concerns of stormwater management - to mitigate pollutant and sediment loading - will include concepts of slowing water flows to allow percolation and other filtering Best Management Practices (BMPs) to work in harmony with the topography, and ensuring that designs for pollutant management are part of the planning and approval processes of new developments. Meeting these goals can include:

A. Reducing non-storm water discharge into the municipal storm water system and area creeks by slowing runoff and maximizing infiltration.

B. Eliminating the spillage, dumping, and disposal of significant materials and pollutants into the municipal storm water system.

C. Reducing pollutant loads in storm water and urban runoff through the use of appropriate Best Management Practices.

D. Reducing the runoff of oil and gas pollutants into area storm water systems and creeks by filtration and/or bio-remediation of commercial/retail/industrial parking lots.

9.66.020 - Urban 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 in compliance with the Federal Clean Water Act (33 USC ' 1251 et seq.), by reducing pollutants in storm water discharges to the maximum extent practicable, and by prohibiting non-storm water discharges to the storm drain system.

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 Public Works Director and Environmental Services Director shall administer, implement, and enforce the provisions of this Section.

2. Regulatory consistency. This Section shall be construed to ensure consistency with the requirements of the Clean Water Act and Porter-Cologne Act, and statutes and regulations that amend or supplement those Acts.

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. 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 storm water. 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 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; groundwater infiltration to the storm drain system; uncontaminated foundation and footing drains; uncontaminated water from crawl space pumps; air conditioning condensation; uncontaminated non-industrial roof drains; springs; individual residential and occasional fundraising or non-commercial car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; 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.

c. With the written concurrence of the Regional Board, the City may grant a written exemption for other specific non-storm water discharges which are not a source of pollutants to the storm drain system nor the waters of the U.S.

Notwithstanding the requirements of Subsection E.1 (Authority to Inspect), the Environmental Services Director 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 Environmental Services Director 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 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.

(1) The City has prepared and adopted requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility that may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. as a separate *BMP Manual.*

(2) Where Best Management Practices 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.

(3) The Best Management Practices Manual shall be revised and updated on a regular basis as needed by new development, new regulations, or changing circumstances.

b. New development and redevelopment. The City may adopt requirements identifying appropriate Best Management Practices to control the volume, rate, and potential pollutant load of storm water 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 best management practices. Notwithstanding the presence or absence of requirements promulgated in compliance with Subsections D.1.a and D.1.b, any person engaged in activities, operations, or animal keeping, or owning facilities or property which will or may result in pollutants entering storm water, the storm drain system, or waters of the U.S. shall implement Best Management Practices to the extent they are technologically achievable to prevent and reduce the pollutants.

(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) Best Management Practices required by the City can be obtained from the Environmental Services Department by requesting the BMP manual appropriate to a commercial or industrial activity from the *BMP Manual.*

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 vegetation in a manner as to increase the vulnerability of the watercourse to erosion.

3. Remediation. Whenever the City finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of storm water, the storm drain system, or water of the U.S., the Environmental Services Director 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 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 storm water pollution, illegal discharges, and/or non-storm water 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 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 storm water, 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 Environmental Services 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 Environmental Services 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 Environmental Services Director 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 Environmental Services Director may enter a premises at all reasonable times to inspect the same and to inspect and copy records related to storm water 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 entry.

2. Authority to sample, establish sampling devices, and test. During any inspection in compliance with this Section, the City 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 shall be punished as in compliance with the Municipal 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 Environmental Services Director finds that a person has violated a prohibition or failed to meet a requirement of this Section, the Environmental Services Director 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;

   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 Environmental Services Director, 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 Environmental Services Director 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 Notice of Violation, or, in the event of an appeal in compliance with Subsection E.4, within 10 days of the decision of the City Manager upholding the decision of the Environmental Services Director, then the City or a contractor designated by the Environmental Services Director 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 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 Environmental Services Director 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 Environmental Services Director, 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 Environmental Services Director 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 nuisance, and may be summarily abated or restored by the City at the violator's expense, and/or the City may take civil action to abate, enjoin, or otherwise compel the cessation of the nuisance.

9.66.030 - Site Development and Maintenance Standards

A. Applicability of provisions. The provisions of Sections 9.66.040 through 9.66.070 apply as determined by this Section, to any proposed land use or development involving grading activities, or the construction of new structures or paving. 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 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 9.66.040 through 9.66.070.

1. An applicant proposing construction on a parcel of one acre or more, or proposing any industrial facility shall 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 Water Resources 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 permit.

2. All new or resurfaced retail, other commercial, or industrial parking lots shall provide a filtering system for hydrocarbons, garbage, and other contaminants as part of their application in compliance with the Administrative Policies of the City. A maintenance plan shall also be included.

3. Each project application shall include a Runoff Mitigation Plan that illustrates the Best Management Practices the project will utilize to reduce stormwater flow and to prevent pollutants from running off the site.

B. Responsibility for administration. This Chapter shall be administered by the Environmental Services Director, or 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 Arcata General Plan;

4. Other existing or future NPDES Permits and any amendments, revisions or reissuance thereof by either Federal, State, County, or City regulatory agencies; and

5. Chapter 9.59 (Environmentally Sensitive Habitat Areas Protection and Preservation).

9.66.040 - Urban 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 a new development project, an applicant shall be required to submit to the City either a *Runoff Mitigation Plan* or a copy of a Notice of Intent (NOI) filed with the Regional Water Quality Control Board.

B. Goal for runoff reduction. An applicant shall demonstrate an effort to reduce projected site runoff by 50 percent from the base 100-year storm event, through the incorporation of design elements or principles that address each goal set forth in Subsections B.1, B.2, and B.3. The design elements utilized by an applicant may, but are not required to, include those listed below, with the exception of Subsection B.2.b 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 reduced runoff to be achieved by the mitigation plan.

1. Increase permeable areas. The following measures may be used to increase the permeable areas on the site.

   a. To slow 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 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 runoff may collect and seep into the ground and reduce or prevent off-site flows;

   c. Divert and catch runoff through the use of drainage swales, berms, green strip filters, gravel beds and french drains; or

   d. Construct driveways and walkways from porous materials to allow increased percolation of runoff into the ground.

2. Minimize runoff. Minimize the amount of runoff directed to impermeable areas and/or maximize storm water storage for reuse:

   a. Install rain gutters and orient them towards permeable surfaces rather than driveways or nonpermeable surfaces so that runoff will penetrate into the ground, away from foundations, instead of flowing off-site;

   b. Modify grades of property to divert flow to permeable areas and to minimize the amount of storm water leaving the property;

c. Use sediment traps and detention ponds, swales, and other methods to intercept runoff from drainage areas and hold or slowly release the runoff, with sediments held in the trap for later removal;

d. Use retention structures or design rooftops to store runoff. Utilize subsurface areas for storm 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; or

e. Design curbs, berms or the like so as to avoid isolation of permeable or landscaped areas.

3. Reduce parking lot pollution:

a. All parking lots except for residential developments with less than 25 spaces are required to use oil and water separators or other BMPs 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.

C. Criteria for evaluation of mitigation plans. The City's evaluation of each Urban 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. A full or partial waiver of compliance with this Section may be obtained by a person who applies to the City in writing and shows that the incorporation of design elements that address the objectives in Subsection B. 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 a three-member board comprised of one representative each designated by the Environmental Services Director, Public Works Director, and City Manager. Their decision shall be forwarded to the Council for final approval.

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 9.64 (Grading, Erosion, and Sediment Control).

G. Hazardous and toxic materials control. The use of toxic and hazardous materials shall be controlled as follows:

1. New Industrial facilities shall file a copy of their Hazardous Materials Handling and Spill Response Plan with the Environmental Services Director and City Engineer;

2. New Commercial, industrial, retail and multi-family developments shall provide a plan for reduced use of pesticides and herbicides as part of their Water Conservation Landscaping plans.

9.66.050 - Drainage Structure Stenciling

Where a catch basin or other drainage structure is required for a proposed project, written and/or graphic information discouraging the dumping, discarding, and/or discharge of pollutants into the storm drainage system shall be permanently affixed to the structure in a location approved by the Environmental Services Director. The information shall be painted, stamped into the concrete, or provided on a metal plaque affixed to the structure as approved by the Environmental Services Director or his or her designee.

9.66.060 - Pollution Prevention Agreements

Prior to final building inspection, 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, as determined by the review authority, 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, as determined by the review authority, 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 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.

9.66.070 - Project Site Best Management Practices

The owner, occupant or other person in charge of day-to-day operation of each premises within the City shall implement the best Management Practices or use Good Housekeeping Practices, as applicable, as follows.

A. For all parking lots except for residential developments with less than 25 spaces, 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 practicable.

B. 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 municipal storm water system.

C. 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 practicable, including the removal and lawful disposal of any solid waste or any other substance which, if it were to be discharged to the municipal storm water system, would be a pollutant, including fuels, waste fuels, chemicals, chemical wastes and animal wastes, from any part of the premises exposed to stormwater.

D. For premises which fall under the requirements for the Industrial SWPPP per Federal Law, the site “annual reports” and “monitoring reports” shall also be copied to the Environmental Services Director.

ARTICLE 7

Planning Permit Procedures

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CHAPTER 9.70 - PERMIT APPLICATION FILING AND PROCESSING

Sections:

9.70.010 - Purpose of Chapter
9.70.020 - Authority for Land Use and Zoning Decisions
9.70.030 - Application Preparation and Filing
9.70.040 - Application Fees
9.70.050 - Recreation Fee For New Construction
9.70.060 - Initial Application Review
9.70.070 - Project Evaluation and Staff Report

9.70.010 - Purpose of Chapter

This Chapter provides procedures and requirements for the preparation, filing, and initial processing of applications for the planning permits required by this Land Use Code.

9.70.020 - 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 Land Use Code.

9.70.030 - Application Preparation and Filing

A. Pre-application conference. A prospective applicant is encouraged to contact the Department to request a pre-application conference before completing and filing an application. The purpose of the conference is to generally:

1. Inform the applicant of City requirements as they apply to the proposed project;

2. Review the City's approval process, possible project alternatives or modifications;

3. Identify the 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; and

4. Provide the opportunity for the applicant to ask questions involving the concerns of multiple City departments before developing detailed plans.

Neither a pre-application conference nor information and/or pertinent policies provided by the Department shall be construed as either a recommendation for approval or disapproval of a project by any City staff. A failure by City staff to identify all required studies or all applicable requirements does not constitute a waiver of those requirements.

B. Application contents. Each application for a planning permit, amendment, or other matter pertaining to this Land Use Code shall be filed with the Department on a City application form, together with required fees and/or deposits, and all materials (e.g., drawings, exhibits, maps, other information) required by the application content requirements "handout" provided by the Department for the specific type of application (e.g., Use Permit, Variance, or others).

1. Consolidation of applications. Application forms for more than one permit may be consolidated if practical.

2. Verification of required contents. Applicants are encouraged to contact the Department before submitting an application to verify which materials are necessary for filing a complete application.

C. Eligibility for filing. An application may only be filed by the owner of the subject property, or an authorized agent with the written consent of the property owner. An application filed by or on behalf of one or more property owners shall be verified by at least one owner, or authorized agent, attesting to the truth and correctness of all facts, statements, and information presented.

D. Preliminary Planning Commission Review.

1. Request for advice. An application for preliminary review may be filed to request the comments of the Planning Commission before filing an application for formal City action or permit issuance for major projects. The Preliminary Review process shall not be used for issues related to Historic Preservation or Design Review as identified in Subsection 9.72.040.E. of this Land Use Code.

2. Planning Commission discretion. The Planning Commission may choose not to provide a Preliminary Review on a major project.

3. Effect of review. A Planning Commission Preliminary Review is advisory only and shall not be considered as a formal approval or disapproval.

9.70.040 - Application Fees

A. Fee Schedule. The Council shall establish a schedule of fees for the processing of the applications required by this Land Use Code, hereafter referred to as the City's Fee Schedule.

B. Multiple applications. The City's processing fees are cumulative. For example, if a project requires both a Use Permit and a Variance, both fees will be charged. All application fees are a deposit subject to an hourly rate.

C. Timing of payment. No application shall be deemed complete, and processing shall not commence or continue on any application until all fees required by the City have been paid in full.

D. Exemptions. A municipal agency shall be exempt from the payment of fees normally required by this Land Use Code.

E. Refunds.

1. Disapproval. Required 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.

2. Withdrawal. If an application is withdrawn, the Director may authorize a partial refund of application fees based upon the pro-rated costs to-date and the status of the application at the time of withdrawal.

Table 7-1 - Review Authority

Type of Decision	Procedure is in Section:	Role of Review Authority (1)			
		Zoning Administrator	Historic & Design Review Commission	Planning Commission	City Council
Administrative and Legislative					
Land Use Code Amendment	9.92			Recommend	Decision
General Plan Amendment	9.92			Recommend	Decision
Historic Designations	9.53		Recommend	Recommend	Decision
Interpretation	9.10.050	Decision (2)		Appeal	Appeal
Local Coastal Program Amendment	9.92			Recommend	Decision
Zoning Map Amendment	9.92			Recommend	Decision
Planning Permit/Development Approval					
Alterations & Demolitions	9.53		Decision	Appeal	Appeal
Coastal Permit (CP)	9.72.030	Decision (3)		Decision	Appeal (4)
Design Review (DR)	9.72.040		Decision	Decision/ Appeal (5)	Appeal
Emergency Permit	9.72.050	Decision (2)		Appeal	Appeal
Hillside Development Permit	9.52.070	Decision(2)		Appeal	Appeal
Master Sign Plan	9.38.030	Recommend	Decision		Appeal
Minor Use Permit (MUP)	9.72.080	Decision (2)		Appeal	Appeal
Tree Removal Permit	9.58.050	Decision (2)		Appeal	Appeal
Planned Development Permit (PD)	9.72.070	Decision (2)		Decision	Appeal
Sign Permit	9.38.030	Decision (2)	Decision		Appeal
Use Permit (UP)	9.72.080	Recommend		Decision	Appeal
Variance	9.72.090		Decision	Decision	Appeal
Zoning Clearance	9.72.100	Issuance		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 9.76 (Appeals).

(2) The Zoning Administrator may defer action and refer the request to the Planning Commission, so that the Planning Commission may instead make the decision.

(3) The Zoning Administrator may act on a Coastal Permit application that is not required to have a public hearing, in compliance with Section 9.72.030 (Coastal Permits).

(4) Coastal Permits are either approved by the City or the California Coastal Commission or both depending on the location of the project. Some City decisions on Coastal Permits can be appealed to the Coastal Commission.

(5) Refer to Section 9.72.040.C for the decision making body.

9.70.050 - Recreation Fee for New Construction

A. Title. This Section may be cited as the "Arcata Recreation Fee for New Construction Ordinance."

B. Purpose. The fee imposed under this Section is solely for the purpose of raising revenue for park acquisition and improvements. This Section is not enacted for regulatory purposes. This Section is intended to supplement the Park Land Dedication procedure in the Subdivision Ordinance (see Section 9.86.030), and it is applicable only for projects not subject to parkland in lieu requirements.

C. Imposition of fee. The Recreation Fee, at the rates identified in the City's Fee Schedule, is hereby imposed upon every person who constructs, or causes to be constructed, any residential, commercial, or industrial structure or portion thereof, including any mobile home pad, in the City, in which a person has an equity, title, or other interest either as owner, lessee, or otherwise.

D. Fee rates. The fee rates on residential, commercial, or industrial construction, including the construction of mobile home pads, imposed under this Section shall be identified in the City's Fee Schedule. The fee rate for residential, commercial, or industrial units shall be based on the valuation of the units being constructed.

E. Time of payment. The amount of fee imposed for the construction of any residential, commercial, or industrial structure, or portion thereof, shall be due and payable at the time a Building Permit is issued authorizing construction, and the amount of fee imposed for the construction of any mobile home pad shall be due and payable at the time a permit is issued to construct and install electrical or plumbing equipment to service the mobile home pad (whichever permit is issued first).

F. Refund. There shall be a refund of the fee in the event the Building Permit expires, or is revoked, before the facilities for which it was issued are constructed or installed.

G. Place of payment. Fees imposed by this Section shall be paid to the City's Building Official at the office of the City's Building Division.

H. Exemptions. The fee imposed by this Section shall not apply to the following:

1. Governmental agencies. The City, the United States, or any agency or instrumentality thereof, the State or any county, city and county, district, or any political subdivision of the State, or any other governmental agency.

2. Remodeling / alteration. Remodeling and/or alteration of a structure, without adding any additional residential units, but only if the total floor area is not increased.

3. Involuntarily damaged or destroyed. Reconstruction of a structure which was involuntarily damaged or destroyed by earthquake, fire, flood, or other cause over which the owner had no control (provided that compliance with any Building Code or other ordinance requirement of the City or of any other applicable law shall not be deemed a cause over which the owner has no control), but only if the total floor area in the structure is not increased. If the total floor area is increased, the Recreation Fee shall be imposed only upon the increased floor area.

4. Park land/fee payment. Construction of dwelling units on parcels which were part of a subdivision for which park land, or fee payment in lieu, has been dedicated to the City in compliance with the Park Land Dedication procedure contained in the Subdivision Ordinance (see Section 9.86.030).

I. Use of fee revenue. All of the fees collected by this Section shall be expended for the acquisition, alteration, construction, enlargement, furnishing, modification, reconstruction, remodeling, renovation, replacement, and/or re-furnishing of the following improvements:

1. City public park, playground, and recreation facilities. City public park, playground, and recreation facilities, including land and interests in land, baseball grounds, basketball, tennis, and volleyball courts, children's play areas, community center structures, recreation structures, sprinkler systems, swimming pools, turf, trails and other facilities, properties, structures, and works necessary or convenient for public park, playground, and recreation purposes; and also including any of the above-described facilities constructed or installed within or upon any public playground for recreation purposes.

2. City maintenance yards. City maintenance yards for park, playground, and recreation facilities, including land and interests in land, structures, and other structures or works necessary or convenient for the maintenance of the City's parks, playgrounds, and recreation facilities.

J. Fee construction fund. For the purposes identified above, all fees collected by this Section shall be placed in a special construction fund which is hereby created and which shall establish and keep the accounts as may be necessary to account for and control the expenditure of revenues in compliance with this Section.

9.70.060 - Initial Application Review

After acceptance of a complete application, the project shall be reviewed as required by the California Environmental Quality Act (CEQA) and Chapter 9.78 (Environmental Impact Assessment).

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 9.70.030.B - Application contents, above), and any additional instructions provided.

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. If the application is complete, a written determination is not required, because the application will automatically be deemed complete 30 days after the receipt of the application.

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 determination in compliance with Chapter 9.76 (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 Subsection A.4.

4. Expiration of application. If an applicant fails to provide the additional information specified in the Director's letter within 180 days after the first filing with the Department, the application shall expire and be deemed withdrawn. Upon a request by the applicant, the Director may grant one 180-day extension. After the expiration of an application, project approval shall require the submittal of a new, complete application.

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 9.78 (Environmental Impact Assessment).

B. Determination of Coastal Permit notice and hearing procedures. For projects proposed within the Coastal Zone, the Zoning Administrator shall make the determination required by Section 9.72.030.D.2 (Coastal Permits - Determination of permit category) as to whether the development is categorically excluded, non-appealable, or appealable for the purposes of notice, hearing, and appeal procedures, at the same time that completeness review occurs in compliance with Subsection A., above.

C. Referral of application. At the discretion of the Zoning Administrator, or where otherwise required by this Land Use 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.

9.70.070 - Project Evaluation and Staff Report

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 Land Use 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 Zoning Administrator, Planning Commission, and/or Council (as applicable) on 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 review authority before a hearing on the application.

CHAPTER 9.72 - PERMIT APPROVAL OR DISAPPROVAL

Sections:

9.72.010 - Purpose of Chapter
9.72.020 - Certificate of Occupancy
9.72.030 - Coastal Permit
9.72.040 - Design Review
9.72.050 - Emergency Permit
9.72.070 - Planned Development Permit
9.72.080 - Use Permit and Minor Use Permit
9.72.090 - Variance
9.72.100 - Zoning Clearance

9.72.010 - Purpose of Chapter

A. Permit review procedures. This Chapter provides procedures for the review, and approval or disapproval of the planning permit applications established by this Land Use Code.

B. Subdivision review procedures. Procedures and standards for the review and approval of subdivision maps are found in the 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 9.70 (Permit Application Filing and Processing), for each application.

9.72.020 - Certificate of Occupancy

A. Purpose. A Certificate of Occupancy is intended to ensure that a new use of land or structure complies with this Land Use Code and any other applicable City requirements. The Zoning Administrator, Planning Commission, and/or Council may establish policies, rules, and regulations that further define these procedures.

B. Applicability. A legal use or occupancy of a structure existing at the time this Land Use Code, or applicable amendment became effective may be continued, but shall not be changed unless a Certificate of Occupancy for a new use is issued by the Building Official.

C. Certificate of Occupancy required. A Certificate of Occupancy shall be required for:

1. Occupancy of any use. The occupancy of any use except for agricultural purposes of vacant land in any zoning district established under the provisions of this Land Use Code;

2. Occupancy of any structure. The occupancy of any use of a new, or structurally altered or moved, structure into or within any zoning district;

3. Change in character or use. Any change in the character or use of an existing structure including:

   a. The division of a single-family dwelling unit into two or more dwelling units;

   b. The conversion of a residential structure into a commercial use; or

   c. Changes in character or use of a building except as specified in Section 3405 of the California Building Code.

D. Application. An application for a Certificate of Occupancy shall be filed with the Building Official before land or a structure is occupied or used.

E. Issuance. A Certificate of Occupancy shall be issued within three days after written notice has been filed by the Building Official that the premises are ready for occupancy or use and that the inspection indicated that the structure or use is in conformity with this Land Use Code, Building and Housing Codes and other applicable City ordinances relating to the health and safety of the residents.

1. Contents. A Certificate of Occupancy shall contain the following information:

   a. The Building Permit number;

   b. The address of the structure;

   c. The name and address of the owner;

   d. A description of that portion of the structure for which the Certificate was issued; and

   e. The name of the Building Official.

2. Temporary Certificate of Occupancy. A "temporary" Certificate of Occupancy may be issued by the Building Official for the use of a portion of a new structure before the completion of the structure, or in the case of an existing structure, for a portion of the entire unit before completion of all work required.

3. Posting of Certificate. The Certificate of Occupancy shall be posted in a conspicuous place of the premises and shall not be removed except by the City's Building Official.

F. Revocation. A Certificate of Occupancy or Temporary Certificate may be revoked after written notice for:

1. A use not specifically authorized by the Certificate of Occupancy;

2. The discovery of any false statement or misrepresentation by the permittee;

3. Continued existence of substandard conditions as defined by applicable City ordinances; or

4. Any condition that jeopardizes public health or safety.

G. Record of approved Certificates. A record of all Certificates of Occupancy shall be kept on file in the Building Division and copies shall be furnished on request to any person having a proprietary or tenancy interest in the subject use, structure, or land.

9.72.030 - Coastal Permit

A. Purpose. This Section provides procedures for the review of the configuration, design, location, and potential impacts of proposed development, a new land use, or subdivision, to evaluate its compliance with the City's Local Coastal Program (LCP).

B. Applicability - Coastal Permit required. A Coastal Permit shall be required for all of the following when proposed within the Coastal Zone, unless exempted by Subsection C. (Exempt projects):

1. Allowable uses and structures. Coastal Permit approval shall be required for all proposed uses and structures allowed in the applicable zoning district by Article 2 (Zoning Districts and Allowable Land Uses) for which a Building Permit is required, and for any proposed subdivision.

2. Alterations to existing structures. Coastal Permit approval shall be required for:

   a. Alterations 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. Alterations within appealable areas. Within an area where a City Coastal Permit decision may be appealed to the Coastal Commission, any 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. Changes in intensity. Any improvement to a structure which increases or decreases the intensity of use of the structure, as determined by the Zoning Administrator;

   d. Conversions. Any 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; and

   e. Historic structures. 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 Permit.

3. Demolition. Coastal Permit approval may be required for the demolition of existing residential, commercial, and other principal structures located in environmentally sensitive areas determined by the Zoning Administrator.

4. Landform alteration. Coastal Permit approval shall be required for any significant alteration of land forms 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 land habitat of extreme, high, or moderate sensitivity.

5. Reconstruction. An existing dwelling damaged or destroyed by natural disaster or as a result of an emergency may be rebuilt; 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. A floor area increase of more than 10 percent or a change in the location of the structure shall require a Coastal Permit to ensure that improvements are sited and designed to minimize impacts on coastal resources. 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. Shoreline structures. Coastal 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.

7. State and local agency projects, other projects. Coastal Permit approval shall be required for all projects including those of State and local public agencies not exempted by this Section or not otherwise requiring a Coastal Permit.

C. Exempt projects. The following projects shall not require a Coastal Permit.

1. Alterations to existing structures. The following improvements and additions to existing structures are exempt from Coastal Permit requirements, except as provided in Subsection B., above.

   a. Fixtures and other structures, including decks, directly attached to the structure;

   b. Residential accessory uses on the same site as an approved residential use, including, garages, fences and storage sheds, swimming pools; but not including guest houses over 400 square feet, or self-contained residential units;

   c. Landscaping on the lot; and

   d. Additions resulting in an increase of less than 10 percent of the interior floor area of an existing structure.

2. Categorical exclusions.

   a. Projects specifically designated as categorically excluded from the requirement for a Coastal Permit by Coastal Act Sections 30610(d) and (f) and implementing regulations are exempt from Coastal Permit requirements.

   b. The Zoning Administrator shall maintain a list of projects determined to be categorically excluded from the requirements of this Section for a Coastal Permit.

c. The list shall be available for public inspection and shall include the applicant's name, project description and location, and the date of the Zoning Administrator's determination, and at a minimum, the list shall include the following:

(1) Permit uses in all zones;
(2) Ministerial projects;
(3) Modifications up to 10% of their original requirement; one per five year period per site;
(4) Minor public works projects costing less than $90,000 (2006 base) with allowances for inflation;
(5) Grading except in Environmentally Sensitive Habitat Areas;
(6) Lot line adjustments;
(7) Parcel mergers;
(8) Agricultural accessory structures; and
(9) Temporary events.

3. Repair and maintenance. A Coastal Permit shall not be required for repair and maintenance activities that do not result in the addition to or enlargement or expansion of the object of repair or maintenance, except that the repair and maintenance of shoreline structures shall require a Coastal Permit.

4. Subdivisions. A Coastal Permit shall not be required for Tentative Maps brought about in connection with the purchase of land by a public agency for recreational purposes which are consistent with Coastal Act Section 30106.

D. Coastal Permit filing and initial processing.

1. Application filing and processing. An application for a Coastal Permit shall be completed, filed, and processed in compliance with Chapter 9.70 (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Coastal Permit applications. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F. (Decision on Coastal Permits), below.

2. Determination of permit category. The Zoning Administrator shall determine if the proposed project requires a Coastal Permit and, if so, determine whether the project is categorically excluded, is non-appealable, or does or does not require a public hearing.

a. Categorical exclusion. A determination that a project is categorically excluded shall comply with Subsection C.2 (Exempt Projects - Categorical Exclusions).

b. Public hearing applications. A public hearing shall be required when:

(1) These regulations, or other applicable provision of the Municipal Code requires 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).

3. Appeal of permit category determination. The Zoning Administrator's determination of Coastal Permit category in compliance with this Subsection may be appealed in compliance with Chapter 9.76 (Appeals), and California Code of Regulations Section 13569.

4. Non-hearing applications. A public hearing shall not be required when these regulations or other applicable provision of the Municipal Code does not require a public hearing or other discretionary action on the permit application by the review authority, or is not appealable as defined by Coastal Act Section 30603(a).

E. Project review, notice, and hearing. Each Coastal Permit application shall be analyzed by the Zoning Administrator to ensure that the application complies with this Section.

1. When a public hearing is required by this Section, the Planning Commission or Council, as applicable, shall conduct a public hearing on an application for a Coastal Permit before the approval or disapproval of the permit.

2. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 9.74 (Public Hearings).

F. Decision on Coastal Permits.

1. Review authority.

a. Zoning Administrator. A non-hearing Coastal Permit application shall be approved or disapproved by the Zoning Administrator. The Zoning Administrator may instead defer action and refer the application to the Planning Commission.

b. Commission or Council. A Coastal Permit application that is required by this Section to have a public hearing shall be approved or disapproved by the Planning Commission or Council, as applicable.

2. Findings. The review authority shall approve a Coastal Permit only after first finding that:

a. The project complies with all applicable provisions of the Local Coastal Program and these regulations; and

b. The applicant has provided written proof of current availability of water and sewer service from the applicable providers.

The findings shall reference applicable policies of the Local Coastal Program where appropriate.

G. Conditions of approval. In approving a Coastal 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. (Decision on Coastal Permits).

H. Post decision procedures. The procedures and requirements in Chapters 9.76 (Appeals) and 9.79 (Permit Implementation, Time Limits, and Extensions), and those related to revocation in Article 9 (Land Use Code Administration), shall apply following the decision on a Coastal Permit application.

9.72.040 - 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 natural beauty, historic, and rural character of the community. Therefore, the goals and purposes of these procedures and requirements are to:

1. Promote the orderly and harmonious development of the City;

2. Create design guidelines for new and historic buildings;

3. Ensure that new development is designed to preserve important natural features and scenic resources;

4. Promote building designs that are well suited to their functions and sites;

5. Initiate and review a City-wide historic resource inventory;

6. Create visual environments which are of high aesthetic quality and variety;

7. Achieve maximum benefit from natural environmental settings;

8. Ensure that new buildings are designed to fit appropriately within the existing neighborhood context;

9. Encourage diversity in building design, rather than repetitive design in new subdivisions;

10. Promote stability of land values and desirability of investment in the City;

11. Incorporate green building concepts and features (e.g., maximum use of energy efficiency, insulation, native landscaping, natural lighting, permeable surfaces around structures, recycled materials and recycling, solar access, use of toxic-free materials, and minimizing construction waste generation) into new and renovated structures; and

12. Recognize and preserve historic resources within the City.

B. Applicability. Design Review shall be required in addition to all of the other planning permit or approval requirements of this Land Use Code and the Municipal Code. The provisions of this Section and the requirements for Design Review shall apply to proposed projects in the following manner.

1. New construction. Design Review shall be required for all new construction in the City, including all structural modifications in exterior appearance, including paved areas, revegetation plans, and all other exterior work and signs which require a permit from the City, except as exempted in Subsection 9.72.040 (B) (7) of the Land Use Code.

2. Historic districts and structures. Design Review shall be required for any changes to a: HL designated historic resource, noteworthy structure, or a building within the Period of Significance that has been determined historically significant by the City, but not limited to:

   a. Any exterior alterations, including changes in materials.

   b. Interior alterations that would affect the exterior appearance.

   c. Any addition to a structure.

   d. Any construction on a parcel with a designated Historic Landmark.

3. Neighborhood Conservation Area (NCA). The Design Review process shall be required for each structure proposed within a Neighborhood Conservation Area (NCA), including single-family houses, historic structures, and existing structures with exterior alterations or renovations except as exempted in Subsection 9.72.040 (B) (7) (b) of this Land Use Code. Before approval, the Historic and Design Review Commission shall make a finding that the design will be compatible with the existing character of the NCA.

4. Recycling, solid waste, and outdoor storage. Design Review shall be required for all outside storage including recycling and solid waste areas as specified in Section 9.30.100 (Solid Waste/Recyclable Materials Storage).

5. Loading areas. Design Review shall be required for all new or altered loading areas.

6. Other projects requiring Design Review. The Director, Building Inspector, or Director of Public Works may choose to submit any application for development to the Historic and Design Review Commission when they determine that the proposed construction, land use, or parcels may cause a significant effect upon solar access or the aesthetic character of the City, area, or neighborhood.

7. Exemptions. The following projects shall be exempt from the requirements for Design Review as noted:

   a. Exemption for single-family structures and secondary units. A new single-family structure, secondary unit, or an addition or alteration to an existing single-family structure or secondary unit shall be exempt from the requirements for Design Review, except as required in Subsection 9.72.040 (B) (2) and (3) or within a Coastal Scenic Area.

   b. Minor repairs consisting of inkind one to one replacements.

   The above exemptions shall not apply if the Zoning Administrator determines that the proposed construction may require modification to fit in with the site or existing unit, and / or neighborhood.

C. Review authority for Design Review. Design Review shall be conducted by the Historic and Design Review Commission (HDRC) or Planning Commission as established by the Council.

1. Type "A" Design Review. Type "A" Design Review shall be approved or disapproved by the HDRC provided that:

a. The proposed project is exempt from CEQA or only the "No Impact" box is checked for all categories with the exception of Section V. Cultural Resources on the Initial Study for a project. If the proposed project is not statutorily or categorically exempt from CEQA, the application shall be referred to the Planning Commission for hearing and decision; or

b. The HDRC may choose to defer action and refer any Design Review application to the Planning Commission for hearing and decision.

2. Type "B" Design Review. Type "B" Design Review shall be approved or disapproved by the Planning Commission for all projects not determined to be Type "A." As per Section 9.72.040H.2, the HDRC shall provide a recommendation to the Planning Commission for all Type "B" Design Review applications.

D. Application filing and processing. An application for a Design Review shall be prepared, filed, and processed in compliance with Chapter 9.70 (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Design Review applications.

E. Preliminary Design Review.

1. Request for advice. An application for Preliminary Design Review may be filed to request the advice of the Historic and Design Review Commission before filing an application for formal City action or permit issuance.

2. Design Review authority discretion. The Historic and Design Review Commission may choose to not provide Preliminary Design Review.

3. Effect of review. Preliminary Design Review is advisory only and shall not be considered as a formal approval or disapproval.

F. Standards for Design Review. In addition to the purposes of this Section identified in Subsection A., above, the Historic and Design Review Commission shall ensure that the project complies with this Section and Subsection 9.28.060 (D) (1) (Considerations for review within the NCA) by:

1. Providing architectural design, building height and massing, and scale appropriate to and compatible with other structures on the site and in the immediate vicinity of the site;

2. Providing attractive and desirable site layout and design, including, but not limited to, building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc;

3. Providing efficient and safe public access, circulation, and parking;

4. Providing appropriate open space and landscaping, including the use of water efficient landscaping;

5. Showing consistency with the General Plan, Local Coastal Program, and any applicable specific plan; and

6. Complying with any applicable design guidelines or design review policies.

G. Project review and noticing. Each application for Design Review shall be reviewed by either the HDRC or the Planning Commission to ensure that the proposal complies with all applicable requirements of this Land Use Code. Each project will be listed on an agenda that will be posted at City Hall at least 72 hours in advance of the meeting and published in a local newspaper at least 24 hours in advance of the meeting. Any project referred to the HDRC, or Planning Commission as noted above, as a result of subsections B2, B3, or B6 shall be noticed in compliance with Chapter 9.74 (Public Hearings).

H. Historic and Design Review Commission action.

1. Approval or disapproval. For projects not subject to review by the Planning Commission or City Council, the HDRC may approve or disapprove the design as submitted, or suggest alterations, changes, or modifications as appropriate, or impose conditions, all in compliance with the standards identified in this Section, and additional standards as may be adopted and published by the HDRC from time to time.

2. Recommendation. For projects subject to review and approval by the Planning Commission or City Council (e.g. Planned Developments, Conditional Use Permits, and Subdivisions), the HDRC shall provide a recommendation to the decision-making body. HDRC review shall be conducted prior to review by the Planning Commission or City Council. If the Planning Commission or City Council determines that significant changes have occurred to a major development, the project will be referred back to the HDRC for final recommendations prior to action by the decision-making body.

3. Deadline for Design Review authority action. The HDRC shall act upon each application within two meetings or 30 days, whichever comes later, from the first consideration of the proposal, unless the applicant consents to further continuances.

I. Conditions of approval. The Historic and Design Review authority may impose any conditions deemed reasonable and necessary to carry out the purpose of this Section. The violation of any condition so imposed shall constitute a violation of this Section and may constitute grounds for revocation.

J. Post decision procedures. The procedures and requirements in Chapter 9.76 (Appeals), Chapter 9.79 (Permit Implementation, Time Limits, and Extensions), and those related to revocation in Article 9 (Land Use Code Administration), shall apply following the decision on an application for Design Review.

9.72.050 - Emergency Permit

A. Purpose. This Section provides procedures for the issuance of Emergency Permits in compliance with the Coastal Act and with the City of Arcata's Emergency Operation Plan.

B. Applicability. In the event of an emergency (see definition for "Emergency"), the Zoning Administrator may issue a permit to authorize emergency work in compliance with this Section, Coastal Act Section 30624, and California Code of Regulations Section 13329.

1. The Zoning Administrator shall not issue an Emergency Permit for any work on any submerged lands, tidelands, or public trust lands, whether filled or unfilled.

2. A request for emergency work on any submerged lands, tidelands, or public trust lands shall be referred to the Executive Director of the Coastal Commission.

C. Application. An application for an Emergency Permit shall be filed with the Zoning Administrator in writing if time allows, or in person or by telephone if time does not allow.

D. Required information. The applicant shall report to the Zoning Administrator the following information, either during or as soon after the emergency as possible:

1. The date, 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 deal with the emergency; and

4. The circumstances during the emergency that appeared to justify the courses of action taken, including the probable consequences of failing to take action.

E. Verification of emergency. The Zoning Administrator shall verify the facts, including the existence and nature of the emergency, as time allows. A Level Three Emergency precludes the requirements of this section and the need for Emergency Permits.

F. Public notice required. The Zoning Administrator shall provide public notice of the proposed emergency work, with the extent and type of notice determined on the basis of the nature of the emergency.

G. Findings and decision. The decision to issue an Emergency Permit is at the sole discretion of the Zoning Administrator; provided, that subsequent land use, Building, and Grading Permits required for the project shall comply with all applicable provisions of these regulations. The Zoning Administrator may grant an Emergency Permit if an emergency exists as defined in Article 10 (Glossary), and if the Zoning Administrator first finds that:

1. An emergency exists that requires action more quickly than allowed by the procedures of this Land Use Code for the permits that would otherwise be required, and the work can and will be completed within 30 days unless otherwise specified by the Emergency Permit;

2. Public comment on the proposed emergency action has been reviewed, if time allows;

3. The work proposed is consistent with the Local Coastal Program and with Coastal Act Section 36011 or superceding section; and

4. The emergency occurred within 30 days of the request for an Emergency Permit, and the emergency was not caused by deferred maintenance.

H. Emergency Permit contents. If granted, the Emergency Permit shall be subject to reasonable terms and conditions, including:

1. Language indicating that the work accomplished under an Emergency Permit is considered temporary unless a regular permit is issued for the work;

2. An expiration date for Emergency Permit; and

3. A condition specifying the necessity for the submittal of a regular permit application within 30 days of the effective date of the Emergency Permit.

I. Expiration. An Emergency Permit shall expire and become void within seven days of issuance if it is not exercised, or if the emergency ceases to exist.

J. Report to Council. For informational purposes only, the Zoning Administrator shall provide the Council with a written report describing the nature of the emergency and the work involved at the Council's first scheduled meeting after the Emergency Permit has been issued. Copies of the report shall be available at the meeting and shall be mailed to the Executive Director of the Coastal Commission and to all persons who have requested this notification in writing.

K. Normal permits required. Within 30 days of the date of issuance of the Emergency Permit, the applicant shall apply for all planning permits required by these regulations, and any other permits required by the Municipal Code. Failure to file the applications and obtain the required permits shall result in enforcement action in compliance with Chapter 9.96 (Enforcement and Penalties).

9.72.070 - Planned Development Permit

A. Purpose. This Section provides procedures for the review of Planned Development Permits. Planned Development Permits are intended to:

1. Provide a method whereby land may be designed and developed as a single unit by taking advantage of modern site planning techniques thereby resulting in a more efficient use of land and a better living environment than is otherwise possible through strict application of the development standards identified in Article 2 (Zoning Districts and Allowable Land Uses); and

2. Ensure that approved development meets high standards of environmental quality, public health and safety, the efficient use of the City's resources, and the purpose, intent, goals, policies, programs, and land use designations of the General Plan, the Local Coastal Program, and any applicable specific plan.

B. Applicability.

1. Minimum site area. A Planned Development Permit may be requested for any residential, commercial, industrial, or mixed-use development. A Planned Development Permit shall be required for any residential development on sites one acre and larger. All properties that have a :PD Combining Zone overlay shall require an approved Planned Development Permit prior to development.

2. Timing of Planned Development Permit approval. For projects proposing a Planned Development Permit, a Building or Grading Permit shall not be issued until the Planned Development Permit has been approved in compliance with this Section and the rezoning for a :PD Combining Zone has been achieved.

3. Scope of Approval.

a. A Planned Development Permit may authorize a land use activity that is not otherwise allowed in the base zoning district provided that:

(1) The development will include other uses which are either permitted outright or conditionally permitted in the base zone; and

(2) The Planning Commission has the review authority to grant a Planned Development Permit for a land use activity that is not otherwise allowed in the base zoning district.

b. The permit may adjust or modify, where necessary and justifiable, all applicable development standards (e.g. building envelope [coverage, height, and setbacks], fence and wall heights, landscaping, off-street parking [design and ratios], site coverage, street layout, etc.) identified in this Land Use Code.

c. A residential project may be approved with increased density or intensity in compliance with the State density bonus law (Government Code Section 65915).

C. Application filing and processing. An application for a Planned Development Permit shall be filed in compliance with Chapter 9.70 (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Planned Development applications. It is the responsibility of the applicant to provide evidence in support of the findings, as required by Subsection G (Findings), below.

D. Planned Development Types. The uses within a Planned Development shall be divided into the following three categories:

1. Type "A" Planned Developments. Type "A" Planned Developments are those developments that are limited to uses that are permitted outright in the zoning district and involve no exceptions to the development standards of the zoning district;

2. Type "B" Planned Developments. Type "B" Planned Developments are those developments that are limited to uses which are permitted outright or conditionally permitted in the zoning district and may involve exceptions to the development standards of the zoning district; and

3. Type "C" Planned Developments. Type "C" Planned Developments may include uses that are not permitted outright or conditionally permitted in the zoning district, provided that the development will include other uses that are either permitted outright or conditionally permitted in the zoning district. Type "C" Planned Developments may involve exceptions to the development standards of the zoning district.

E. Review Authority. A Planned Development Permit may be granted by the following review authorities:

1. Zoning Administrator. The Zoning Administrator may grant Type "A" Planned Development Permits that are exempt from CEQA; and

2. Planning Commission. The Planning Commission may grant Type "A" Planned Development Permits that are not exempt from CEQA reviews, Type "B" and Type "C" Planned Development Permits.

F. Project Review, Notice and Hearing. Each application shall be reviewed by the Zoning Administrator to ensure that the proposal complies with all applicable requirements of the Land Use Code. Any request for phasing within a Planned Development Permit shall have an application that includes a Comprehensive Development Plan for the entire site.

1. Type "A" Planned Developments that are Exempt from CEQA. Before a decision on a Type "A" Planned Development Permit that is exempt from CEQA, the City shall provide notice in compliance with Chapter 9.74 (Public Hearings).

   a. The notice shall state that the Zoning Administrator will decide whether to approve or disapprove the Type "A" Planned Development Permit application on the 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 decision.

   b. If a public hearing is requested, the Zoning Administrator shall refer the application to the Planning Commission for a hearing and decision to be conducted in compliance with Chapter 9.74 (Public Hearings). If no public hearing is requested, the Zoning Administrator shall render a decision on the date specified in the notice referred to in Subsection F.1.a, above.

2. Other Planned Developments Permits. The Planning Commission shall conduct public hearings for all of the following applications:

   a. Type "A" Planned Development Permits that are not exempt from CEQA;

   b. Type "A" Planned Development Permits that the Zoning Administrator chooses to refer to the Planning Commission for hearing and decision;

   c. Type "B" Planned Development Permits; and

   d. Type "C" Planned Development Permits.

Notice of public hearings shall be provided, and the hearings shall be conducted in compliance with Chapter 9.74 (Public Hearings).

G. Findings. The review authority may approve a Planned Development Permit only after first making the following findings as appropriate for the type of Planned Development Permit.

1. Findings for Type "A" Planned Development Permits:

   a. The proposed project carries out the policies and intent of the General Plan, Local Coastal Program and any applicable specific plan;

   b. The proposed project is in compliance with all of the applicable provisions of this Land Use Code;

   c. Proper standards and conditions have been imposed to ensure the protection of the public health, safety and welfare;

d. The proposed project will not circumvent the intent of protecting Environmentally Sensitive Habitat Areas or significant historic resources, and consideration will be given to impacts on areas with steep slopes, waterways, wetlands or riparian areas, or significant cultural or historic resources; and

e. The subject site is adequate in terms of size, shape, topography and existing conditions to accommodate the proposed development.

2. Findings for Type "B" Planned Development Permits:

a. All findings listed for Type "A" Planned Development Permits in Subsection 9.72.070.G.1, above, except for G.1.b;

b. The proposed project meets the intent of all applicable provisions of this Land Use Code relating to both on-site and off-site improvements that are necessary to accommodate flexibility in site planning and property development and to carry out the purpose, intent, and requirements of this Section and the respective base zoning district, including prescribed development standards and applicable design guidelines;

c. The proposed project is designed to ensure compatibility with adjacent uses within the zoning district and general neighborhood of the proposed development;

d. The proposed project will produce a comprehensive development of superior quality (e.g. appropriate variety of structure placement and orientation opportunities, appropriate mix of structure sizes, high quality architectural design, increased amounts of landscaping and open space, improved solutions to the design and placement of parking facilities, etc.) that might not otherwise occur from more traditional development applications;

e. Each proposed exception is justifiable and will result in a more desirable development, and development amenities are provided as identified in Subsection H. The possible exceptions listed in Subsection B (Applicability) may be allowed when the review authority first determines that a specific exception will result in a more desirable development; and

f. Proper on-site traffic circulation and control is designed into the development to ensure interconnectivity with neighborhoods (i.e. vehicle, pedestrian, and bicycle), and protection for fire suppression and police surveillance equal to or better than what would normally be created by compliance with the minimum setback and parcel width development standards identified in Article 2 (Zoning Districts and Allowable Land Uses).

3. Findings for Type "C" Planned Development Permits:

a. All findings listed for Type "A" except for G.1.b. and Type "B" Planned Development Permits in Subsection 9.72.070.G.2, above;

b. The design, location, operating characteristics, and size of the proposed development will be compatible with the existing and future land uses in the vicinity, in terms of aesthetic values, character, scale, and view protection; and

c. The available land supply in the primary zoning district shall be sufficient for other permitted uses, if a use other than that permitted or conditionally permitted is proposed.

H. Modifications to Development Standards. A Planned Development that proposes an exception to the requirements of this Land Use Code shall provide development amenities that offset any exceptions to an equal or greater degree, as determined by the review authority. These amenities may include the following:

1. In a residential planned development, the inclusion of housing units for people of moderate, low, or very low income in addition to the number of units required by Chapter 9.32 (Affordable Housing Requirements);

2. Special attention given to the amount and design of common open space;

3. Special attention given to minimizing the extent of site disturbance;

4. Provision of day care facilities or recreational facilities;

5. Architectural/site design merit;

6. Energy-efficient construction that exceeds Title 24 requirements by 15%;

7. Special attention given to the amount and design of proposed landscaping;

8. Provision of laundry facilities, covered parking, or other special amenities;

9. Facilities for recycling and storage of garbage, beyond those normally expected. For example, a neighborhood drop-off site for recycled materials would be an amenity; on-site recycling bins would not as these are typically required;

10. Creation of jobs for people of moderate, low, or very low income;

11. Provision of bike facilities other than those required by Section 9.36.060, or other provisions of this Land Use Code; and/or

12. Restoration of Environmentally Sensitive Habitat Areas, where feasible.

I. Planned Development Permit project completion.

1. A Planned Development Permit may specify a time for project completion acceptable to the review authority.

2. If not specified in the permit, the completion period shall not exceed 36 months unless extensions are granted per Subsection 9.79.070(B)(2) of this code.

3. If construction of the project has not commenced within the applicable development completion period, the Planned Development Permit shall automatically be terminated and deemed void, with no further action required by the City.

J. Planned Development Permit Amendment.

1. Action on requested changes. Any requested change in the Planned Development Permit, other than those allowed by Subsection J.3, below shall be submitted to the review authority (the review authority that originally approved the permit) for review and approval.

2. Added stipulations deemed reasonable and necessary. The review authority may, as a condition of approval, impose added stipulations, changes or conditions to the Planned Development Permit as it deems reasonable and necessary to carry out the purpose and intent of the original Planned Development Permit and this section.

3. Minor changes by Zoning Administrator. Minor changes in the Planned Development Permit which do not involve an increase in building area, an increase in the number of dwelling units, decrease in amenities, or a change of use may be approved by the Zoning Administrator in compliance with Section 9.79.080 (Change to an Approved Project).

K. Conditions of approval. In approving a Planned Development Permit, the review authority may impose any conditions (e.g. the placement, height, nature and extent of the use; buffers, landscaping and maintenance, off-site improvements, performance guarantees, screening, surfacing, etc.) deemed reasonable and necessary to carry out the purposes of this Section and to ensure that the approval will comply with the findings required by Subsection G (Findings), above. The violation of any required condition shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

L. Coastal Permit required. A Coastal Permit shall be required for all Planned Development Permits located in the Coastal Zone. Procedures for obtaining a Coastal Permit are identified in Section 9.72.030 (Coastal Permits).

M. Post decision procedures. The procedures and requirements in Chapters 9.76 (Appeals) and 9.79 (Permit Implementation, Time Limits, and Extensions), and those related to revocation in Article 9 (Land Use Code Administration), shall apply following the decision on an application for Planned Development Permit approval.

9.72.080 - 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 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 a proposed land use 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.

C. Review authority.

1. Use Permit. A Use Permit shall be approved or disapproved by the Planning Commission.

2. Minor Use Permit. A Minor Use Permit shall be approved or disapproved by the Zoning Administrator, provided that:

   a. The Zoning Administrator may choose to defer action and refer any Minor Use Permit application to the Planning Commission for hearing and decision; and

   b. A Minor Use Permit may be issued by the Zoning Administrator only if the proposed project is exempt from CEQA. If the proposed project is not statutorily or categorically exempt from CEQA, the application shall be referred to the Planning Commission for hearing and decision.

D. Application filing and processing. An application for a Use Permit or Minor Use Permit shall be completed, filed, and processed in compliance with Chapter 9.70 (Permit Application Filing and Processing). The application shall include the information identified in the Department handout for Use Permit applications. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F., below.

E. Project review, notice, and hearing. Each application shall be reviewed by the Zoning Administrator to ensure that the proposal complies with all applicable requirements of this Land Use Code.

1. Use Permit. The Planning Commission shall conduct a public hearing on an application for a Use Permit before reaching a decision on the application. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 9.74 (Public Hearings).

2. Minor Use Permit. Before a decision on a Minor Use Permit, the City shall provide notice in compliance with Chapter 9.74 (Public Hearings).

   a. Content of public notice. The notice shall state that the Zoning Administrator 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. Response to request for hearing. If a public hearing is requested, the Zoning Administrator shall refer the application to the Planning Commission for a hearing and decision to be conducted in compliance with Chapter 9.74 (Public Hearings).

   c. Decision without hearing. If no public hearing is requested, the Zoning Administrator shall render a decision on the date specified in the notice described in Subsection E.2, above.

F. Findings and decision. The review authority may approve a Use Permit or Minor Use Permit only after first finding all of the following:

1. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Land Use Code and the Municipal Code or is a nonconforming use in compliance with subsection 9.90.020A.1;

2. The proposed use is consistent with the General Plan, Local Coastal Program, and any applicable specific plan;

3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and potential future land uses in the vicinity;

4. The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and

5. Granting the permit will not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.

G. Conditions of approval. In approving a Use Permit or Minor Use Permit, the review authority shall impose any conditions (e.g., the placement, height, nature and extent of the use; buffers, landscaping and maintenance, off-site improvements, performance guarantees, screening, surfacing, time limits, etc.) deemed reasonable and necessary to carry out the purposes of this Section and 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. Coastal Permit required. A Coastal Permit shall be required for all Use Permits located in the Coastal Zone except those specifically excluded from Coastal Permit requirements by Section 9.72.030 (Coastal Permit).

I. Post decision procedures. The procedures and requirements in Chapters 9.76 (Appeals) and 9.79 (Permit Implementation, Time Limits, and Extensions), and those related to revocation in Article 9 (Land Use Code Administration), shall apply following the decision on an application for Use Permit or Minor Use Permit approval.

9.72.090 - Variance

A. Purpose. This Section allows Variances from the development standards of this Land Use Code only when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical conditions, the strict application of the standards denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district.

B. Applicability. A Variance may be granted to waive or modify any requirement of this Land Use Code except: allowed land uses; residential density; specific prohibitions (for example, prohibited signs), or procedural requirements.

C. Review authority. A Variance application shall be approved or disapproved by the appropriate review authority.

D. Application filing and processing. An application for a Variance shall be completed, filed, and processed in compliance with Chapter 9.70 (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Variance applications. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection F., below.

E. Project review, notice, and hearing. Each application for a Variance shall be reviewed by the Zoning Administrator to ensure that the proposal complies with all applicable requirements of this Land Use Code. The appropriate review authority shall conduct a public hearing on an application for a Variance before a decision on the application. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 9.74 (Public Hearings).

F. Findings and decision. The appropriate review authority may approve a Variance with or without conditions, only after first making all of the following findings, as applicable.

1. General findings.

a. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, topography, or other conditions), so that the strict application of this Land Use Code denies the property owner privileges enjoyed by other property owners in the vicinity and within the same zoning district;

b. Granting the Variance is necessary for the preservation and enjoyment of substantial property rights enjoyed by other property owners in the same vicinity and zoning district and denied to the property owner for which the Variance is sought; and

c. The Variance is consistent with the General Plan, Local Coastal Program, and any applicable specific plan.

2. Findings for off-street parking Variances. For a nonresidential development project proposing to locate a portion of the required parking at an off-site location, or provide in-lieu fees or facilities instead of the required on-site parking spaces, the appropriate review authority shall first make both of the following findings in compliance with State law (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 subject nonresidential development; and

b. The Variance will facilitate access to the subject nonresidential development by patrons of public transit facilities.

3. Finding for reasonable accommodation. The appropriate review authority may also grant a Variance to the site planning or development standards of this Land Use Code in compliance with this Section, based on the finding that the Variance is necessary to accomplish a reasonable accommodation of the needs of a disabled person in compliance with the Americans with Disabilities Act (ADA).

G. Conditions of approval. In approving a Variance, the appropriate review authority:

1. Shall impose conditions to ensure that the Variance does not grant special privileges inconsistent with the limitations on other properties in the vicinity and zoning district in which the property is located; and

2. May impose any conditions (e.g., the placement, height, nature and extent of the use; buffers, landscaping and maintenance, off-site improvements, performance guarantees, screening, surfacing, etc.) deemed reasonable and necessary to carry out the purposes of this Section and 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. Coastal Permit required. A Coastal Permit shall be required for all Variances in the Coastal Zone except those specifically excluded from Coastal Permit requirements by Section 9.72.030 (Coastal Permits).

I. Post decision procedures. The procedures and requirements in Chapters 9.76 (Appeals) and 9.79 (Permit Implementation, Time Limits, and Extensions), and those related to revocation in Article 9 (Land Use Code Administration), shall apply following the decision on an application for a Variance.

9.72.100 - Zoning Clearance

A. Purpose. Zoning Clearance is the procedure used by the City to verify that a proposed structure or land use 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 Land Use 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 Land Use Code for the proposed use.

C. Issuance.

1. The Zoning Administrator shall issue the Zoning Clearance after determining that the request complies with all Land Use Code provisions applicable to the proposed use.

2. An approval may be in the form of a stamp, City staff signature, or other official notation on approved plans, a letter to the applicant, or other certification, at the discretion of the Zoning Administrator.

CHAPTER 9.74 - PUBLIC HEARINGS

Sections:

9.74.010 - Purpose of Chapter
9.74.020 - Notice of Hearing
9.74.030 - Wavier of Public Hearing on Coastal Permit for Minor Development
9.74.040 - Notice of Non-Appealable Development
9.74.050 - Scheduling of Hearing
9.74.060 - Hearing Procedure
9.74.070 - Recommendation by Planning Commission
9.74.080 - Decision and Notice
9.74.090 - Effective Date of Decision

9.74.010 - Purpose of Chapter

This Chapter provides procedures for the public hearings required by this Land Use Code. 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.

9.74.020 - Notice of Hearing

When this Land Use 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.

A. Contents of notice. Notice of a public hearing shall include:

1. Hearing information. The date, time, and place of the hearing and the name of the hearing body; a brief description of the City's general procedure concerning the conduct of hearings and decisions; 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, Mitigated Negative Declaration or final Environmental Impact Report has been prepared for the project in compliance with Chapter 9.78 (Environmental Impact Assessment), the hearing notice shall include a statement that the hearing body will also consider approval of the proposed Negative Declaration, Mitigated Negative Declaration or certification of the final Environmental Impact Report; and

4. Coastal Zone information. If the proposed development is 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. Mailing. Notice shall be mailed or delivered at least 10 days before the hearing to the following:

a. Site owners. The owners of the property being considered in the application, or the owner's 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. Nearby property owners. All owners of real property as shown on the latest County 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 judgment of the Zoning Administrator, be affected by the proposed project;

d. Projects not exempt from CEQA. For projects not exempt from CEQA, all owners of real property as shown on the latest County equalized assessment roll, within a radius of 500 feet of the exterior boundaries of the parcel that is the subject hearing;

e. 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;

f. Persons requesting notice. Any person who has filed a written request for notice with the Zoning Administrator and has paid the required fee for the notice; and

g. Coastal Commission. The Coastal Commission, if the proposed development is within the Coastal Zone.

2. Additional required notice. If the notice is mailed as identified in Subsection B.1., above, then the notice shall also either be:

a. Published. Published at least once in a local newspaper of general circulation within the City at least 10 days before the hearing; or

b. Posted. Posted by the applicant, at least 10 days before the hearing, on site and along public streets within 100 feet of the subject site's boundaries and in at least three public places in the City, in compliance with the Department's handout on public hearing requirements.

3. Alternative to mailing. If the number of property owners to whom notice would be mailed in compliance with Subsection B.1., above is more than 1,000, the Zoning Administrator may choose to provide the alternative notice allowed by State law (Government Code Section 65091[a][3]), except for developments within the Coastal Zone.

4. Additional notice. In addition to the types of notice required above, the Zoning Administrator may provide any additional notice with content or using a distribution method as the Zoning Administrator determines is necessary or desirable.

9.74.030 - Waiver of Public Hearing on Coastal Permit for Minor Development

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 Land Use Code to have a public hearing. A request to waive a public hearing shall be noticed per Subsection 9.74.030 (B) (1) below.

A. Applicability. 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 which:

1. Is determined to be truly minor by the Zoning Administrator;

2. Is consistent with the certified Local Coastal Program;

3. Requires no discretionary approval other than a Zoning Clearance; or

4. Has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.

Minor development shall include a single-family home and additions to a single-family home, and other development determined by the Zoning Administrator to meet the above listed 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 9.74.020.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 15 working days from the date of the City sending the notice.

C. Content of notice. The notice shall contain all information required by Section 9.74.020.A (Contents of Notice), and shall also provide a statement that failure by a person to submit a written request for 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.

9.74.040 - Notice of Non-Appealable Development

The 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 Land Use 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 9.74.020 (Notice of Hearing). This Section provides notice requirements for projects which are not appealable to the Coastal Commission in compliance with Public Resources Code Section 30603, and which are not categorically excluded.

A. Distribution of notice. Within 10 days of accepting a planning permit application for a non-appealable development, or at least 10 days before the City's decision on the application, the City shall provide notice, by first-class mail, of the pending development application, 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 County equalized assessment roll, and residents, within a radius of 100 feet of the exterior boundaries of the parcel involved in the application; and

3. The Coastal Commission.

B. Content of notice. The notice shall contain the information required for public notices by Section 9.74.020.A (Contents of Notice), 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.

9.74.050 - Scheduling of Hearing

After the completion of any environmental documents required by the California Environmental Quality Act (CEQA) and Chapter 9.78 (Environmental Impact Assessment) and a Department staff report, a matter requiring a public hearing shall be scheduled on the next available Zoning Administrator, Historic and Design Review Commission, Planning Commission, or Council agenda (as applicable) reserved for public hearings, but no sooner than any minimum time period established by State law.

9.74.060 - Hearing Procedure

A. Time and place of hearing. A public hearing shall be held at the date, time, and place for which notice was given.

B. Continuance. A hearing may be continued without further notice; provided, 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 action. For any matter being considered at a hearing in compliance with this Land Use Code, a hearing body may announce a tentative decision, and defer their action on a final decision until appropriate findings and/or conditions of approval have been prepared.

9.74.070 - Recommendation by Planning Commission

A. Written recommendation required. At the conclusion of a public hearing on a proposed amendment to the General Plan/Local Coastal Plan, this Land Use Code, the Zoning Map, a provision of the certified Local Coastal Program, a development agreement, or a specific plan, the Planning Commission shall forward a written recommendation, including all findings on which the decision was based, to the Council for final action.

B. Mailing of recommendation. Following the hearing, a copy of the Planning Commission's recommendation shall be mailed to the applicant at the address shown on the application.

9.74.080 - Decision and Notice

A. Decision. 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 9.74.060 (Hearing Procedure). At the conclusion of a hearing conducted by the Zoning Administrator, the Zoning Administrator may instead refer the matter to the Planning Commission for a final determination.

B. Council decision is final. The decision of the Council on any matter except a Local Coastal Program amendment (see Section 9.92.070) shall be final.

C. Notice of decision. The notice of decision shall contain all findings on which the decision was based, any conditions of approval, and any reporting and/or monitoring requirements required to mitigate identified impacts and protect the public convenience, health, interest, safety, or general welfare. Following the hearing and decision, the applicant shall be provided the notice of decision.

9.74.090 - Effective Date of Decision

A decision of the Zoning Administrator, Historic and Design Review Commission, or Planning Commission in compliance with Chapter 9.72 (Permit Approval or Disapproval) is final and effective on the 11th day following the decision unless an appeal is filed in compliance with Chapter 9.76 (Appeals).

CHAPTER 9.76 - APPEALS

Sections:

9.76.010 - Purpose of Chapter
9.76.020 - Appeal Subjects and Jurisdiction
9.76.030 - Filing and Processing of Appeals
9.76.040 - Appeals to the Coastal Commission

9.76.010 - Purpose of Chapter

This Chapter establishes procedures for the appeal and review of determinations and decisions of the Flood Plain Administrator, Zoning Administrator, Historic and Design Review Commission, or Planning Commission.

9.76.020 - Appeal Subjects and Jurisdiction

A. Land Use Code administration and interpretation. The following determinations and actions of the Zoning Administrator and Department staff may be appealed to the Planning Commission and then to the Council:

1. A determination on the meaning or applicability of these regulations that are believed to be in error, and cannot be resolved with Department staff;

2. A determination that a permit application or information submitted with the application is incomplete, in compliance with State law (Government Code Section 65943); and

3. An enforcement action in compliance with Chapter 9.96 (Enforcement and Penalties).

B. Planning permit and hearing decisions.

1. Director. A determination, interpretation, or decision of the Director under the provisions of this Land Use Code may be appealed to the Planning Commission.

2. Flood Plain Administrator. A determination, interpretation, or decision by the Flood Plain Administrator in compliance with Chapter 9.60 (Flood Hazard Mitigation Standards), may be appealed to the Planning Commission.

3. Zoning Administrator. A determination, interpretation, or decision by the Zoning Administrator may be appealed to the Planning Commission.

4. Historic and Design Review Commission. A decision of the Historic and Design Review Commission may be appealed to the Planning Commission and/or Council per Table 7-1 (Review Authority).

5. Planning Commission. A decision of the Planning Commission may be appealed to the Council.

9.76.030 - Filing and Processing of Appeals

A. Eligibility. Appeals to, and reviews of decisions made in compliance with this Land Use Code may be initiated by the following individuals and bodies.

1. Aggrieved persons. An appeal may be filed by an aggrieved person, as defined in Section 7.69.040.A, except that in the case of a decision on a Minor Use Permit, Use Permit, Variance, and/or other Planning Commission decision that followed a public hearing. An appeal may only be filed by an aggrieved 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. Commission review. The Planning Commission may choose to review a determination by the Director or Flood Plain Administrator, or a decision by the Zoning Administrator or Historic and Design Review Commission.

   a. A member of the Planning Commission may request the opportunity to discuss any decision previously rendered; however, a majority vote of the Planning Commission is required to initiate an appeal of the decision.

   b. Upon a majority vote by the Planning Commission to initiate an appeal, the Director shall schedule the matter for hearing.

3. Council review. The Council may choose to review a determination by the Director or Flood Plain Administrator, or a decision by the Zoning Administrator, Historic and Design Review Commission, or Planning Commission.

   a. A member of the Council may request the opportunity to discuss any decision previously rendered; however, a majority vote of the Council is required to initiate an appeal of the decision.

   b. Upon a majority vote by the Council to initiate an appeal, the City Clerk shall schedule the matter for hearing.

   c. Except for a decision on development within the Coastal Zone (see Section 9.76.040, below), the decision of the Council on an appeal shall be final and shall become effective upon adoption of the resolution by the Council.

B. Timing and form of appeal. An appeal shall be in writing and shall specifically state the pertinent facts and the basis for the appeal.

1. General appeals. An appeal shall be filed with the Department or City Clerk, as applicable, within 10 business days of the actual date of the final decision. Appeals addressed to the Planning Commission shall be filed with the Department; appeals addressed to the Council shall be filed with the City Clerk. An appeal shall be accompanied by the required filing fee identified in the City's Fee Schedule.

2. Appeal by Coastal Commissioners. An appeal to a City decision on an appealable development within the Coastal Zone by two Coastal Commissioners shall be filed within 10 business days of the North Coast office of the Coastal Commission receiving the notice of final City action required by Section 9.79.030 (Final City Action on Planning Permit in the Coastal Zone).

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. When an appeal has been filed, the Director shall prepare a report on the appeal, and schedule the appeal for a public hearing by the appropriate review authority identified in Section 9.76.020, above. Notice of the hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 9.74 (Public Hearings).

E. Decision.

1. At a hearing on an appeal, the review authority may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for the appeal.

2. 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 Land Use 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.

3. If new or different evidence is presented on appeal, the Planning Commission or Council may refer the matter to any applicable review authority for further consideration.

F. Effective date of appeal decision.

1. Planning Commission decision. A decision by the Planning Commission is effective on the 11th business day after the decision, when no appeal to the decision has been filed with the Council.

2. Council decision. A decision by the Council is effective on the date of the decision, except in the case of a development that is appealable to the Coastal Commission in compliance with Section 9.76.040 (Appeals to the Coastal Commission).

G. Notice of final action on appeals within the Coastal Zone. Where an appeal has been filed and decided on a project that is appealable to the Coastal Commission in compliance with Section 9.76.040 (Appeals to the Coastal Commission), the City shall provide a Notice of Final Action.

H. Withdrawal of an appeal of a Planning Commission decision. After filing, an appeal of a Planning Commission decision shall not be withdrawn except with the consent of the Council.

9.76.040 - Appeals to the Coastal Commission

Decisions by the Flood Plain Administrator, Zoning Administrator, Planning Commission, and Council on developments within the Coastal Zone may be appealed to the California 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, or two members of the Coastal Commission in compliance with Public Resources Code Section 30625.

2. Aggrieved person defined - Public Resources Code Section 30801. Anyone who, in person or through an explicitly identified representative who appeared at a public hearing before the Zoning Administrator, Planning 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 his or her concerns, unless for good cause was unable to do either.

B. Exhaustion of City appeals required. An applicant or aggrieved party 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:

1. An appellant was denied the right of appeal under this Chapter because City notice and hearing procedures did not comply with Title 14, Division 5.5, Chapter 8, Subchapter 2 of the California Code of Regulations; or

2. An appeal of a City decision by two members of the Coastal Commission, in compliance with Public Resources Code Section 30625, 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 permit application for any of the following projects may be appealed to the Coastal Commission:

1. Between the sea and the first public road. Developments located 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 (refer to Post Certification Map);

2. Public trust lands, submerged lands, or tidelands. Developments located on public trust lands, submerged lands, tidelands, or within 100 feet of any estuary, stream, or wetland (refer to Post Certification Map);

3. Public works/energy facility. Any development that constitutes a major public works project or energy facility; and

4. Sensitive coastal resource area. Development not included with Subsections (1) or (2) that is located within sensitive coastal resource areas as defined in Public Resource Code Section 30116.

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 for appeal to 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 in California Code of Regulations Section 13111.

CHAPTER 9.78 - ENVIRONMENTAL IMPACT ASSESSMENT

Sections:

9.78.010 - Purpose of Chapter
9.78.020 - Authority
9.78.030 - Guiding Principles
9.78.040 - Applicability
9.78.050 - Preparation of Environmental Documents
9.78.060 - Exemptions from CEQA
9.78.070 - Fees
9.78.080 - Appeals
9.78.090 - Public Hearings
9.78.100 - Time Limits
9.78.110 - Review and Determination Procedures
9.78.120 - Negative Declaration
9.78.130 - Draft Environmental Impact Report
9.78.140 - Final Environmental Impact Report
9.78.150 - Standards of Adequacy
9.78.160 - Content of Environmental Impact Report
9.78.170 - Findings
9.78.180 - Notice of Determination

9.78.010 - Purpose of Chapter

This Chapter implements 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 application of Statutory and Categorical Exemptions and 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.

9.78.020 - Authority

These guidelines are adopted by the City to implement Public Resources Code Section 21082, hereinafter referred to as the California Environmental Quality Act of 1970, or "CEQA."

9.78.030 - 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, or a scoping session. 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 costs and the project review period.

C. Consistency. An examination of whether the project is consistent with existing zoning, plans, and other applicable land use controls shall be performed (CEQA Guidelines, Section 15063(d)(5)).

D. 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.

E. Mitigation monitoring. Where mitigation of environmental impacts is required, the mitigation measures shall be monitored over time to ensure that the steps taken are adequate to achieve the intended purpose. An applicant for a project for which mitigation monitoring is required shall be responsible for all costs associated with both the monitoring program and the implementation or any remedial measures should they become necessary in the event that a mitigation measure fails to achieve its intended purpose.

F. Historical resources. Project reviews shall comply with Section 15064.5 of the CEQA Guidelines and/or comply with Subsection 9.53.040 (D) (2) of this Land Use Code when an action which has the potential to adversely affect a historical resource is pending during the project review period.

9.78.040 - 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.

9.78.050 - Preparation of Environmental Documents

The City, when it has the principal responsibility for project approval or implementation, shall prepare project environmental documents either directly or by contract as determined by Council protocols.

A. Initial study required. The City shall require the project sponsors to supply an initial study, using a City approved form, to determine whether the project may have a significant effect on the environment and to assist in the preparation of the appropriate CEQA document. Should it become evident that an EIR must be prepared for the project, the initial study requirement may be waived.

B. Independent judgment required. All environmental documents distributed for public review shall be reviewed by the Environmental Coordinator and shall reflect the independent judgment of the City as lead agency.

C. Noticing of document availability required. The public shall be notified of the availability of all environmental documents, including Notice of Exemption, prepared for public review, by the Environmental Coordinator. Noticing can be achieved through detailed agendas for the various review authorities.

9.78.060 - Exemptions from CEQA

A. Exemption from CEQA. An exemption from CEQA shall apply to a project if it is exempt by statute, categorical exemption, general rule, or by rejection or disapproval of the project (CEQA Guidelines Section 15061). This includes the determination by the City that the project is exempt under the general rule that CEQA applies only to projects that will have the potential for causing a significant effect on the environment (Section 15061 [b] [3]). Unlike statutory exemptions, categorical exemptions are not absolute. There are exceptions to the exemptions as listed in Section 15300.2 of the CEQA Guidelines. The existence of the exception requires the project to go through the CEQA process regardless of the fact that the project otherwise meets the criteria of a categorical exemption.

B. Ministerial projects. Ministerial projects are statutorily exempt from CEQA review as opposed to discretionary projects which require some sort of judgment to be used by the review authority. The term "ministerial project" shall be applied as it is used in the CEQA Guidelines (see Section 15268), except that certain projects, reviewable by the Environmental Coordinator without a public hearing, shall be considered ministerial. These include the following, except when a project involves a parcel with an average slope greater than 20 percent, or a discretionary review process is already involved:

1. Code interpretations;

2. Determination of ESHA and EBA boundaries and wetland setbacks;

3. Determination of parking requirements;

4. Determination of zoning district boundaries;

5. Extension requests;

6. Modification of off-street loading requirements;

7. Sidewalk non-compliance;

8. Vision clearance waivers; and

9. Tree removals for 4 or fewer trees in accordance with Subsection 9.58.020 (B) (2) (a) (1) of this Land Use Code, except for Landmark Trees.

9.78.070 - Fees

Fees to recover the estimated cost for the preparation and/or processing, and reproduction of Negative Declarations, notices, related environmental documents, and other essential administrative costs shall be payable to the City in the amounts and at the times identified by the City's Fee Schedule. The cost of an EIR shall be deposited with the City in compliance with the applicable City's Fee Schedule.

9.78.080 - Appeals

A. Filing of appeal. Any person may appeal the final decision of any City official, agency, board, or commission rendered in compliance with California Environmental Quality Act, the CEQA Guidelines, or these guidelines. The appeal shall be made, in writing, within 10 days of the date the final decision was rendered, in compliance with Chapter 9.76 (Appeals).

B. Additional notice. In addition to the notice provisions identified in Chapter 9.74 (Public Hearings), the City Clerk shall give notice of the appeal to the project applicant, if the project applicant is not the appellant, and to any organizations or individuals previously requesting the notice in writing.

9.78.090 - Public Hearings

A. Public hearing on draft document may be scheduled.

1. A public hearing on the draft environmental document may be scheduled if the Environmental Coordinator, Planning Commission, or Council determines that the magnitude of the project, the complexity of the environmental issues, or the degree of public interest or controversy indicate that a public hearing is appropriate to facilitate the goals and purposes of CEQA and these guidelines.

2. If the Environmental Coordinator, Planning Commission, or Council does so choose to hold a public hearing, the hearing shall take place during the public review period. Public Hearings for Draft EIRs are further described in Section 9.78.130 D., below.

B. Public hearing for adoption or certification. A public hearing may be required for adoption of the Negative Declaration or certification of the final EIR. If a pubic hearing on a Negative Declaration or a draft EIR is otherwise required by this Chapter, State law, Planning Commission, or Council discretionary decision, the hearing may be held in conjunction with the hearing on the project application.

9.78.100 - Time Limits

A. Negative Declarations and EIRs. 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. Measurement of time limits. The time limits required by Subsection A. shall be measured from the date on which an application for project approval is accepted as complete by the City, in compliance with Section 9.70.060 (Initial Application Review). The time limits may be waived when the project would require compliance 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. Applicant failure to notify City. Failure of an applicant to notify the City in writing of the current status of the project and/or failure to pay the administrative cost of starting the EIR within 20 days of the final decision to prepare the EIR, shall automatically terminate any further City consideration of the project.

9.78.110 - Review and Determination Procedures

A. Application content and completeness. Each application shall contain sufficient information to allow for a determination whether environmental review is required and, if so, the type of environmental document to be prepared. An application shall not be deemed to be complete without this information.

B. Indemnification and Hold Harmless Agreement. The Environmental Coordinator may require an applicant for a project requiring environmental review to hold the City, its officers, employees and agents, free and harmless from any claim, action or proceeding attacking or seeking to set aside the approval of an applicant's project.

C. Preliminary determination. Upon receipt by the lead City Department of an application for project approval, or a proposal for a public project, a copy of the application or proposal shall be forwarded to the City's Environmental Coordinator. The Environmental Coordinator shall make a preliminary determination and report the determination to the lead City Department and the applicant or applicant's representative.

D. Categorical exemption projects.

1. Certain projects have no substantial environmental impact by their very nature, generally because of the size or type of activity.

2. These projects, as identified by the State Resources Agency, shall be categorically exempt from further provisions of this Chapter.

3. The list of categorical exemptions is published by the State Resources Agency and amended from time to time.

4. In the event that the State no longer publishes a list, a similar list shall be adopted by the Council.

5. A Notice of Exemption if required by the City, shall include a statement that the subject project is categorically exempt (PRC Section 21152), shall be noticed and filed with the County Recorders Office (14 CCR Section 15061d) after project approval.

E. Initial study and determination.

1. Detailed project description and initial study. Along with the formal application the applicant shall submit a detailed project description and an initial study evaluating the project's potential environmental significance. At this time any potential adverse environmental impacts should be identified. The initial study requirement may be waived for EIRs.

2. Contents of initial study.

a. The initial study shall consist of a checklist and any other materials which may be necessary to determine what level of environmental reporting would be required (e.g., Negative Declaration or an EIR).

b. The initial study may also be used to determine suggested modifications to the project which, if incorporated into the project design, may reduce the level of environmental reporting required.

c. Information in the initial study that may also help determine whether a mitigation monitoring program would be necessary.

F. Submission of data. The Environmental Coordinator may require the applicant to revise the initial study or supply additional data and information necessary for making an environmental determination. The data and information shall be submitted in any format approved by the Environmental Coordinator and may be included, in whole or in part, within any report or determination.

G. Determination.

1. If the initial study or other information discloses potential adverse effects of 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 this information shows that impacts can be avoided, or reduced to a less than significant level, the Environmental Coordinator may then determine that the project will not have a significant impact and proceed with preparation of a Negative Declaration in compliance with Section 9.78.120 (Negative Declaration), below.

3. Preparation of a Negative Declaration may serve as the written determination and will be publicly noticed.

4. The determination shall be completed within 45 days after accepting a complete application.

5. If the submitted information is not considered sufficient to avoid potentially significant impacts, then an EIR shall be prepared in compliance with Section 9.78.130 (Draft EIR), below.

9.78.120 - Negative Declaration

In this Chapter, references to Negative Declarations shall implicitly include Mitigated Negative Declarations, as applicable.

A. Notice of intention.

1. Notice required. If the Environmental Coordinator determines that a Negative Declaration shall be proposed, a notice of intent to adopt the Negative Declaration shall appear in the legal advertisement section of 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.

2. Whom shall receive notice. In addition to a legal advertisement in the newspaper, notice shall be given to the County Clerk and all responsible agencies in compliance with Section 15072 of the CEQA Guidelines and to other public agencies having jurisdiction. Additionally, notice may be given to persons having special expertise as provided by the CEQA Guidelines. The notice shall be given at least 21 days before the adoption of the Negative Declaration.

3. 30-day review period. The public review period shall be 30 days for projects 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.

4. Appeal of decision. The decision to file a Negative Declaration may be appealed by any interested party in compliance with Chapter 9.76 (Appeals). In cases where project modification would make the environmental effect insignificant, a provisional Negative Declaration may be issued based upon project modification as required to reduce the environmental effects. The Negative Declaration processing fee shall be identified in the City's Fee Schedule.

B. Contents. All Negative Declarations prepared by or for the City shall contain the following information:

1. A complete project description;

2. A location map for the project, including the address;

3. A proposed finding that the project will not have a significant effect on the environment;

4. The Initial Study which supports the above finding;

5. Mitigation measures, if any, to avoid potentially significant effects. The applicant shall agree in writing to the mitigation measures identified; and

6. Where a project involves a site that the Department of Toxic Substances Control and the Secretary for Environmental Protection have identified as being affected by hazardous wastes or cleanup problems, in compliance with State law (Government Code Section 65962.5), the Negative Declaration shall make that fact clear.

C. Changes before public review. Changes in the project description which are designed to mitigate significant environmental effects to a level of insignificance shall be completed before the draft Negative Declaration is released for public review, as required by Section 15070 (b)(1) of the CEQA Guidelines. New or additional mitigation measures developed to clearly avoid or mitigate significant environmental impacts, and any applicable monitoring program, shall be agreed to by the applicant before the release and public review of the draft Negative Declaration.

D. Required findings. In adopting a Negative Declaration, the review authority shall determine that the project would not have a significant adverse effect on the environment, consistent with CEQA Guidelines Section 15065, and make findings that the project will not:

1. Substantially degrade environmental quality;

2. Substantially reduce fish or wildlife habitat;

3. Cause a fish or wildlife habitat to fall below self-sustaining levels;

4. Threaten to eliminate a plant or animal community;

5. Reduce the numbers or range of a rare, threatened, or endangered species;

6. Eliminate important examples of the major periods of California history or pre-history;

7. Achieve short term goals to the disadvantage of long term goals;

8. Have possible environmental effects that are individually limited but cumulatively considerable when viewed in connection with past, current, and reasonably anticipated future projects; and

9. Have environmental effects that will directly or indirectly cause substantial adverse effects on human beings.

E. Hearing and adoption.

1. Action on Negative Declaration. Before making a determination on a project, the review authority shall conduct a public hearing to consider the Negative Declaration. The review authority shall either adopt the Negative Declaration, or return it to City staff for further study. The applicant shall address any adverse impacts identified by the review authority and may revise the project to alleviate these impacts. Any revisions to a Negative Declaration shall be conducted in compliance with Section 15073.5 and 15074.1 of the CEQA Guidelines.

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 which cannot be mitigated or avoided, they shall require the applicant to prepare an EIR for the subject project.

F. Notice of Determination. Following adoption of the Negative Declaration, it shall be signed by the Environmental Coordinator. A Notice of Determination shall be filed with the County Clerk and with the Secretary for Resources, if required by the CEQA Guidelines (see Public Resources Code Sections 21152 [a] and 21152.1). Where fees are required to be paid at the time of filing, the Environmental Coordinator shall specify the manner in which those fees are to be handled.

9.78.130 - Draft Environmental Impact Report

A. Notice of Preparation. Immediately after determining that an EIR is required for a project, the Environmental Coordinator 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.

B. Preparation and adequacy.

1. Preparation of draft EIR.

   a. When an EIR is required, the Environmental Coordinator shall determine if the EIR shall be prepared by staff or consultant under contract to the City, per CEQA Guidelines Section 15084a.

   b. If the EIR is to be prepared by a consultant, the City shall request EIR proposals under established criteria and select a qualified consultant from respondents, other than the applicant.

   c. The City retains the right to hire separate consultants for review of the draft documents.

   d. The applicant shall enter into a contract with the City for all EIR preparation costs.

2. Deposit of EIR costs required. The applicant shall deposit with the City EIR contract costs and administrative costs in compliance with the City's Fee Schedule.

3. Compliance with CEQA. The consultant's contract shall specify that the EIR shall be prepared to comply with CEQA, the CEQA Guidelines, this Chapter and as determined by the City.

4. Information submitted by applicant. Information submitted by the applicant, after independent analysis, may be included, in whole or in part, within the draft EIR.

5. Preparation of EIR for public project. The City may prepare the draft EIR, in whole or in part, for public projects.

6. Administrative review. The Environmental Coordinator 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 further analysis.

C. Distribution and review.

1. Public review of draft EIR.

a. Public participation is an essential part of CEQA, in compliance with CEQA Guidelines Section 15201.

b. The City shall provide at least 30 days for public review of the draft EIR.

c. 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.

d. The time for review shall commence the day copies of the draft EIR are received by the Clearinghouse.

2. Public notice. Public notice of the review period shall be given in compliance with Public Resources Code Section 21092. The public notice shall be published in a newspaper of general circulation, and posted in the County Clerk's office for 30 days.

3. Access to draft EIR. Copies of the draft EIR may be purchased from the City Clerk and/or from a local copy shop for the cost of duplication. An electronic version may also be available from the City.

4. Notice of Availability. The 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.

D. Hearing. During the public review period, the review authority may hold a public hearing to accept written and oral comments on the draft EIR.

9.78.140 - Final Environmental Impact Report

A. Preparation. Upon completion of the public review period, the Environmental Coordinator shall collect all comments on the draft EIR and provide them to the City's consultant or City staff. Those comments and appropriate responses shall be included in the final EIR.

B. Review.

1. Administrative review. If requested by the Environmental Coordinator, the City's consultant or City staff shall submit for review an administrative draft of the final EIR. The Environmental Coordinator 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.

2. Copies of final EIR. Copies of the final EIR shall be placed in the City Clerk's office, public library, and in locations designated by the Environmental Coordinator.

3. Access to final EIR. Copies of the final EIR may be purchased from the City Clerk and/or from a local copy shop for the cost of duplication. An electronic version may also be available from the City.

C. Certification. The review authority shall consider and review the final EIR before taking any action on the subject project and shall:

1. Certify compliance with CEQA. Certify that the final EIR has been prepared in compliance with CEQA and this Chapter, that it has been reviewed and considered by the review authority; and that it represents the City's independent judgment and analysis; or

2. Determine the final EIR to be inadequate. Determine that the final EIR is inadequate, and return it to the City's consultant or City staff for further processing.

9.78.150 - Standards of Adequacy

A. Sufficient degree of analysis.

1. An EIR should be prepared with a sufficient degree of analysis to provide the decision makers with information which enables them to make a decision which intelligently takes into account all potential environmental consequences.

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 reasonably feasible.

3. Disagreement among experts does not make an EIR inadequate.

4. The courts have looked not for perfection but for adequacy, completeness, and good faith effort at full disclosure.

B. Responsibility for adequacy. The draft and final EIRs shall reflect the City's independent judgment in compliance with CEQA Guidelines Section 15084.

9.78.160 - Content of Environmental Impact Report

A. Mandatory topics. All EIRs prepared by or for the City shall include discussion of the following topics as required by CEQA Guidelines Sections 15122 through 15132:

1. Table of contents or index;

2. Summary of discussion contained in the draft EIR;

3. Project description;

4. Environmental setting;

5. Significant environmental effects of the project (including direct, indirect, short-term, cumulative, and unavoidable impacts);

6. Areas of known controversy;

7. Alternatives to the proposed project, including the No-Project Alternative, and identification of the environmentally superior alternative;

8. Mitigation measures for the identified significant environmental effects;

9. Growth-inducing impacts; and

10. Significant irreversible changes due to the proposed project (required only for EIRs on plans, policies, ordinances, Local Agency Formation Commission Actions, and EIR/EISs).

B. Data from other reports. In preparation of the report, data and conclusions may be drawn from other reports accepted by the City which may be referenced.

C. Most critical impacts. The EIR shall address all potential environmental impacts, but concentrate on potential impacts with the greatest adverse effects.

9.78.170 - Findings

A. Reviewed and considered the EIR. 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 will or will not have a significant effect on the environment.

B. Required findings. The review authority shall not approve or carry out a project where the certified EIR identifies one or more significant environmental effects without a Statement of Overriding Consideration (see Subsection C, below), unless it makes one or more of the following findings, supported by written evidence:

1. 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 infeasible the mitigation measures or project alternatives identified in the certified EIR.

C. Statement of Overriding Considerations.

1. Social and economic benefits. The review authority may approve a project which may result in significant adverse effects on the environment if it determines that there are social and economic benefits which outweigh the possibility of environmental damage.

2. Benefits outweigh the potential environmental effects. In this case the review authority shall issue a Statement of Overriding Considerations stating how they arrived at the conclusion that the overall potential benefits outweigh the potential environmental effects.

3. Publishing of statement. The statement shall be published in a newspaper of general circulation within 14 days of the review authority's decision.

9.78.180 - Notice of Determination

A. After approval or disapproval of a project for which a final EIR has been certified or a Negative Declaration made, the Environmental Coordinator shall file a Notice of Determination with the County Clerk in compliance with the CEQA Guidelines.

B. If the project requires discretionary approval from a State agency, the Notice of Determination also shall be filed with the Secretary of Resources.

CHAPTER 9.79 - PERMIT IMPLEMENTATION, TIME LIMITS, AND EXTENSIONS

Sections:

9.79.010 - Purpose of Chapter
9.79.020 - Effective Date of Permits
9.79.030 - Final City Action on a Planning Permit within the Coastal Zone
9.79.040 - Applications Deemed Approved
9.79.050 - Permits to Run with the Land
9.79.060 - Performance Guarantees
9.79.070 - Permit Time Limits, Extensions, and Expiration
9.79.080 - Change to an Approved Project
9.79.090 - Resubmittal
9.79.100 - Covenant of Easements

9.79.010 - Purpose of Chapter

This Chapter provides requirements for the implementation or "exercising" of the permits required by this Land Use Code, including time limits and procedures for granting extensions of time.

9.79.020 - 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 business day following the actual 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 9.76 (Appeals).

B. Appealable development. The approval of a planning permit for a project that is appealable to the Coastal Commission shall become effective upon the expiration of the Coastal Commission 10 business day appeal period which begins the day after the receipt by the North Coast office of the California Coastal Commission of adequate notice of final action, 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, and where no local appeal has been filed within 10 business days of the date of the decision by the review authority in compliance with Chapter 9.76 (Appeals).

9.79.030 - Final City Action on a Planning Permit within the Coastal Zone

The following requirements apply after the review authority has acted on a planning permit application within the Coastal Zone after a public hearing.

A. Notice of final City action. Within five calendar days of a Council decision on a planning permit, or at the end of the local appeal period (e.g., from the Planning Commission to the Council) and meeting the requirements of Subsection B., below, the City shall notify the following of its action by first class mail:

1. The Coastal Commission; and

2. Any person who specifically requested notice of the action by submitting a self-addressed, stamped envelope to the City (or, where required, who paid the fee established by the City's Fee Schedule to receive the notice).

The notice shall include any conditions of approval and written findings and the procedures for appeal of the City decision to the Coastal Commission.

B. Notice of failure to act.

1. Notification by applicant. If the City has failed to act on an application within the time limits identified in State law (Government Code Sections 65950-65957.1), thereby approving the development by operation of law, the person claiming a right to proceed in compliance with Government Code Sections 65950-65957.1 shall notify, in writing, the City and the Coastal Commission of their claim that the development has been approved by operation of law. The notice shall specify the application which is claimed to be approved.

2. Notification by City. When the City determines that the time limits established by Government Code Sections 65950-65937.1 have expired, the City shall, within seven calendar days of the determination, notify any person entitled to receive notice in compliance with Subparagraph B.1., above, that the application has been approved by operation of law in compliance with Government Code Sections 65950-65957.1, and the application may be appealed to the Coastal Commission in compliance with California Code of Regulations Section 13110 et seq. This Section shall apply equally to a City determination that the project has been approved by operation of law, and to a judicial determination that the project has been approved by operation of law.

C. Finality of City action. A City decision on a planning permit application for a development shall not be deemed final until:

1. The City decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified Local Coastal Program and, where applicable, with the public access and recreation policies of Coastal Act Chapter 3; and

2. When all City rights of appeal have been exhausted in compliance with Chapter 9.76 (Appeals).

9.79.040 - Applications Deemed Approved

A planning permit application for a parcel outside of the Coastal Zone that is deemed approved in compliance with State law (Government Code Section 65956) shall be subject to all applicable provisions of this Land Use 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.

9.79.050 - Permits to Run with the Land

A Design Review, Minor Use Permit, Planned Development Permit, Use Permit, or Variance approval that is granted in compliance with Chapter 9.72 (Permit Approval or Disapproval) 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 or becomes void in compliance with Section 9.79.070 (Permit Time Limits, Extensions, and Expiration). All applicable conditions of approval shall continue to apply after a change in property ownership.

9.79.060 - Performance Guarantees

A. Security may be required. As a condition of approval and 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 in the event that the obligor fails to perform. 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 faithful performance bond executed by the applicant and a corporate surety authorized to do business in California. The security shall remain in effect until all of the secured conditions have been performed to the satisfaction of the Zoning Administrator.

B. Payable to the City. Any security required in compliance with this Section shall be payable to the City.

C. Release of security. Upon satisfaction of all applicable provisions of this Section, the security deposit will be released. However, 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 cost incurred thereto, including administrative, engineering, inspection, and legal costs. Any unused portion of the security shall be refunded to the obligor after deduction of the cost of the work, except that, to the extent that the Zoning Administrator can demonstrate to the satisfaction of the City Manager 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. The City Manager's determination may be appealed to the Council by the obligor by filing an appeal with the City Clerk within 10 business days after the decision.

9.79.070 - Permit Time Limits, Extensions, and Expiration

A. Time limits. Unless a condition of approval or other provision of this Land Use Code establishes a different time limit, any permit or approval not exercised within 12 months of approval shall expire and become void, except where an extension of time is approved in compliance with Subsection B., below, or by the period of time in which:

1. An appeal to the Council is pending;

2. A proceeding before the California Coastal Commission is pending; or

3. Construction is restrained by the process of any Court of competent jurisdiction.

B. Extensions of time. Upon written request by the applicant, the Zoning Administrator 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 Department at least 30 days before the expiration of the permit, together with the filing fee required by the City's Fee Schedule.

b. Basis for extension. The Zoning Administrator 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 financial hardship, 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 review authority who originally granted the approval shall hold a public hearing on a proposed extension of time, after providing notice of the public hearing in compliance with Chapter 9.74 (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 review authority first finds that there have been no changes in the conditions or circumstances of the site or project that would have been grounds for disapproval of the original project.

a. Zoning Administrator's action. Upon good cause shown, the first extension may be approved, approved with modifications, or disapproved by the Zoning Administrator, whose decisions may be appealed to the Planning Commission, in compliance with Chapter 9.76 (Appeals).

b. Planning Commission's action. One subsequent extension may be approved, approved with modifications, or disapproved by the Planning Commission, whose decisions may be appealed to the Council in compliance with Chapter 9.76 (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 approvals are first obtained.

D. Exercised defined. The permit shall not be deemed "exercised" until the permittee has obtained the required Building Permit, or has actually commenced the allowed use on the site in compliance with the conditions of approval, where no Building Permit is required.

E. Run with the land. After it has been exercised, a planning permit shall remain valid and run with the land in compliance with Section 9.79.050, as long as a Building Permit is active for the project, or a Certificate of Occupancy has been granted.

F. Developed in pre-approved phases. If a project is to be developed in pre-approved phases, each subsequent phase shall be exercised within 12 months from the date that the previous phase was exercised, unless otherwise specified in the permit, or the permit shall expire and be void in compliance with Subsection C., above, except where an extension of time is approved in compliance with Subsection B., above.

9.79.080 - Change to an Approved Project

Development or a new land use authorized through a planning permit granted in compliance with this Land Use 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 desired change in writing, and shall also furnish appropriate supporting materials and an explanation of 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 required. If the original project approval required public notice and a hearing, public notice shall be provided, and the Planning Commission shall conduct a public hearing on the requested changes in compliance with Chapter 9.74 (Public Hearings).

C. Changes approved by Zoning Administrator.

1. If no public hearing is required by Subsection B. (Public hearing required), above, the Zoning Administrator may authorize one or more changes to an approved site plan, architecture, or the nature of the approved land use where the Zoning Administrator first finds that the changes:

   a. Are consistent with all applicable provisions of this Land Use Code;

   b. Do not involve a feature of the project that was a basis for 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 a basis for conditions of approval for the project or that was a specific consideration by the review authority (e.g., the Zoning Administrator, Historic and Design Review Commission, Planning Commission, or Council) in the project approval; and

   d. Do not result in an expansion of the land use.

2. The Zoning Administrator 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., above shall only be approved by the original review authority for the project through a new permit application processed in compliance with this Land Use Code.

9.79.090 - Resubmittal

A. Resubmittal prohibited within 12 months.

1. May be disapproved with prejudice. An application for a discretionary planning permit, entitlement, or amendment may be disapproved with prejudice.

2. Disapproved with prejudice defined. An application may be disapproved with prejudice 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.

3. Exceptions to 12-month limitation. For a period of 12 months following the date of disapproval of a discretionary planning permit, entitlement, or amendment, no application for the same or substantially similar discretionary permit, entitlement, or amendment for the same site shall be filed, except if the disapproval was without prejudice, or on the grounds of substantial new evidence or proof of changed circumstances to an extent that further consideration is deemed warranted.

B. No limitation on disapprovals without prejudice. There shall be no limitation on subsequent applications for a site on which a project was disapproved without prejudice.

C. Zoning Administrator's determination. The Zoning Administrator shall determine whether the new application is for a permit, entitlement, or amendment which is the same or substantially similar to the previously approved or disapproved permit, entitlement, or amendment.

D. Appeal. The determination of the Zoning Administrator may be appealed, in compliance with Chapter 9.76 (Appeals).

9.79.100 - Covenant 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.).

1. Required provisions. A Covenant of Easement may be required to provide for emergency access, ingress and egress, landscaping, light and air access, open space, parking, or for solar access.

2. Condition of approval. A Covenant of Easement may be imposed as a condition of approval by the review authority.

B. Form of covenant. The form of a Covenant shall be approved by the City Attorney, and a Covenant of Easement shall identify:

1. The real property to be subject to the easement and the real property to be benefited by the easement;

2. The planning permit or approval granted that relied on or required the Covenant; and

3. The purposes of the easement.

C. Recordation. A Covenant of Easement shall be recorded in the County Recorder's Office and a conformed copy for City files to be paid by the applicant.

D. Effect of covenant. From and after the time of its recordation, a Covenant of Easement shall:

1. Act as an easement. Act as an easement in compliance with State law (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 apply to the conveyance of the affected real property; and

2. Impart notice. 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 of covenant. A Covenant of Easement shall be enforceable by the successors-in-interest to the real property benefited 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 benefited by the Covenant, to enforce or to challenge the Covenant or any requested amendment or release.

F. Release of covenant. The final review authority may release a Covenant of Easement at the request of any person, including the City or an affected property owner, after first finding that the Covenant is no longer necessary to achieve the land use goals of the City. Upon release, the Zoning Administrator shall cause the recordation of a notice of the release of the Covenant of Easement with the County Recorder's Office.

G. Fees. The City shall impose fees to recover the City's reasonable cost of processing a request for a release. Fees for the processing shall be established by the City's Fee Schedule.

ARTICLE 8

Subdivision Regulations and Procedures

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CHAPTER 9.80 - APPLICABILITY AND ADMINISTRATION OF SUBDIVISION REGULATIONS

Sections:

9.80.010 - Purpose of Article
9.80.020 - Authority
9.80.030 - Applicability
9.80.040 - Responsibility for Administration
9.80.050 - Advisory Agency
9.80.060 - Authority for Subdivision Decisions
9.80.070 - Type of Subdivision Approval Required
9.80.080 - Applications Deemed Approved
9.80.090 - Exceptions to Subdivision Standards
9.80.100 - Appeals
9.80.110 - Enforcement of Subdivision Regulations

9.80.010 - Purpose of Article

The provisions of this Article constitute the City of Arcata Subdivision Ordinance. These provisions are intended to supplement, 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.

9.80.020 – 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.

9.80.030 - Applicability

A. Subdivision approval required. Each subdivision of land within the City shall be authorized through the approval of a map 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 Land Use 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.

9.80.040 - 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.

9.80.050 - Advisory Agency

A. Advisory agency established. The advisory agency for subdivision review shall be the City Engineer, Zoning Administrator, Planning Commission, and Council, as noted in Section 9.80.060 (Authority for Subdivision Decisions).

B. Authority and duties. The advisory agency shall perform the following duties, and as further detailed in Section 9.80.060 (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 Humboldt 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.1. Approve, conditionally approve, or disapprove Tentative Maps;

9.80.060 - Authority for Subdivision Decisions

Table 8-1 (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 8-1 - SUBDIVISION REVIEW AUTHORITIES

Type of Subdivision Application or Decision	Procedure is in Section:	Role of Review Authority (1)				
		City Attorney	City Engineer	Zoning Administrator	Planning Commission	City Council
Certificate of Compliance	9.84.020	Recommend	Recommend	Decision (2)		
Certificate of Correction	9.82.120		Decision			
Exception to standards - 4 or fewer parcels	9.80.090		Recommend	Decision (2)	Appeal	Appeal
Exception to standards - 5 or more parcels	9.80.090		Recommend	Recommend	Decision	Appeal
Final Map	9.82		Recommend	Recommend		Decision
Improvement Agreements	9.88.070	Form				Decision
Improvement Plans	9.88.050		Decision			
Improvement Security	9.88.070	Form				Decision
Lot Line Adjustment	9.84.050			Decision (2)	Appeal	Appeal
Merger and Unmerger	9.84.060			Decision (2)	Appeal	Appeal
Parcel Map	9.82		Recommend	Decision (2)	Appeal	Appeal
Reversion to Acreage	9.84.070		Recommend			Decision
Tentative Map - 4 or fewer parcels	9.81		Recommend	Decision (2)	Appeal	Appeal
Tentative Map - 5 or more parcels	9.81		Recommend	Recommend	Decision	Appeal
Waiver of Parcel Map	9.82.030			Decision (2)	Appeal	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 9.76 (Appeals).

(2) The Zoning Administrator may instead refer the matter to the Planning Commission for review and decision.

9.80.070 - 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, 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 9.82) 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 Section 230 of the California Public Utilities Code, 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 9.82.030 (Waiver of Parcel Map).

2. Final Map. The filing and approval of a Final Map (Chapter 9.82) 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.

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.

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 9.72.030 for Coastal Development Permit requirements and procedures.

9.80.080 - 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 this Land Use 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.

9.80.090 - Exceptions to Subdivision Standards

An exception to a provision of Chapter 9.88 (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.

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 9.81.120 (Tentative Map Time Limits and Expiration).

C. Approval of exception. The review authority shall not grant an exception until the request for an exception is processed in accordance with Sections 9.72.070 (Planned Development Permit), 9.31.030 (Density Bonuses), and/or 9.32.050 (Inclusionary Incentives) of this Land Use Code.

D. Conditions of approval. In granting an exception, the review authority 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.

9.80.100 – Appeals

Any interested person may appeal any decision of the Director or Zoning Administrator to the Planning Commission, and may appeal any decision of the Planning Commission to the Council, in compliance with Chapter 9.76 (Appeals).

9.80.110 - 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 Chapter 9.96 (Enforcement and Penalties).

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 9.81 – TENTATIVE MAP FILING AND PROCESSING

Sections:

9.81.010 - Purpose of Chapter
9.81.020 - Tentative Map Preparation, Application Contents
9.81.030 - Tentative Map Filing, Initial Processing
9.81.040 - Evaluation of Application
9.81.050 - Review and Decision
9.81.060 - Findings Required for Tentative Map Approval
9.81.070 - Conditions of Approval
9.81.080 - Effective Date of Tentative Map Approval
9.81.090 - Changes to Approved Tentative Map or Conditions
9.81.100 - Completion of Subdivision Process
9.81.110 - Vesting Tentative Maps
9.81.120 - Tentative Map Time Limits and Expiration
9.81.130 - Extensions of Time for Tentative Maps

9.81.010 - 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.

9.81.020 - Tentative Map Preparation, Application Contents

Tentative Map submittal as prepared by a qualified professional shall include the application forms, and all information and other materials prepared as required by the Community Development Department and the City Engineer. If the property proposed for subdivision is within the Coastal Zone, the material submitted shall also include an application for Coastal Development Permit approval, in compliance with Section 9.72.030 (Coastal Permits).

9.81.030 - 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. Evaluated in a staff report in compliance with Chapter 9.70 (Permit Application Filing and Processing).

B. Referral to affected agencies. The procedure provided by this Subsection is in addition to the procedures in Chapter 9.70 (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 9.70.060 (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.

9.81.040 - Evaluation of Application

After completion of the initial processing and the application being deemed complete in compliance with Section 9.70.060, the Director shall:

A. Review and evaluate each Tentative Map as to its compliance and consistency with applicable provisions of this Land Use 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 9.81.060 (Findings Required for Tentative Map Approval); and

C. Prepare a staff report to the review authority 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 9.84.040) at least three days before any hearing or action on the Tentative Map by the review authority in compliance with Section 9.81.050.

9.81.050 - Review and Decision

The Zoning Administrator shall be the review authority for a proposed subdivision of four or fewer parcels, and the Planning Commission shall be the review authority for a subdivision of five or more parcels. After review of a Tentative Map in compliance with Section 9.81.040 the review authority shall:

A. Conduct a public hearing on the proposed Tentative Map in compliance with Chapter 9.74 (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 Land Use Code, the General Plan, any 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 review authority, but no later than 50 days after the Tentative Map application was deemed complete in compliance with Section 9.70.060 (Initial Application Review) the review authority shall approve, conditionally approve, or deny the Tentative Map.

D. Approval or conditional approval of a Tentative Map shall be given only after the review authority first makes all findings required by Section 9.81.060 (Findings required for Tentative Map Approval). The review authority may recommend conditions of approval in compliance with section 9.81.070 (Conditions of Approval).

E. The decision of the review authority to approve or deny a Tentative Map may be appealed in compliance with Chapter 9.76 (Appeals).

9.81.060 - Findings Required for Tentative Map Approval

In order to approve or recommend the approval of a Tentative Map and conditions of approval, or to deny 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 9.81.030 (Tentative Map Filing, Initial Processing), except where the City has initiated General Plan, specific plan or Land Use 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 after first making all of the following findings. 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.

1. The proposed subdivision, including its design and improvements, is consistent with the General Plan and any applicable Specific Plan;

2. The site is physically suitable for the type and proposed density of development;

3. The design of the subdivision and the proposed improvements will not cause substantial environmental damage or injure fish or wildlife or their habitat;

4. The design of the subdivision and type of improvements will not cause serious public health or safety problems;

5. The design of the subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of, property within the proposed subdivision. This finding may also 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 judgment 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 will comply with any applicable requirements prescribed by the California Regional Water Quality Control Board;

7. A preliminary soils report or geological hazard report indicates no adverse soil or geological conditions and the subdivider has provided sufficient information to the satisfaction of the City Engineer or other applicable review authority that any adverse conditions will be corrected in the plan for the development; and

8. The proposed subdivision is consistent with all applicable provisions of this Land Use Code, any other applicable provisions of the Municipal Code, and the Subdivision Map Act.

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 roads and other improvements as necessary within a specified time after recordation of the Parcel Map.

2. Condominiums. Any applicable findings required by Section 9.84.040 for condominium conversions.

3. Waiver of Parcel Map. The findings required by Section 9.82.030 (Waiver of Parcel Map), if waiver of a Parcel Map has been requested with the Tentative Map application.

9.81.070 - 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 Land Use Code, provided that all conditions shall be consistent with the requirements of the Map Act.

9.81.080 - 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, immediately after the expiration of the appeal period for the decision.

9.81.090 - 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 9.82.120 (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 Community Development Department, using the forms furnished by the Community Development 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 Community Development 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.

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 subsections 9.81.060 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 Land Use 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 9.81.130 (Expiration of Approved Tentative Map).

9.81.100 - Completion of Subdivision Process

A. Compliance with conditions, improvement plans. After approval of a Tentative Map 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 9.88 (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 9.82 (Parcel Maps and Final Maps), to complete the subdivision, unless a Parcel Map has been waived in compliance with Section 9.82.030 (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 9.82 (Parcel Maps and Final Maps), to complete the subdivision.

9.81.110 - 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.

9.81.120 - Tentative Map Time Limits and Expiration

An approved Tentative Map is valid for 24 months after its effective date (Section 9.81.080), 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 9.82 (Parcel Maps and Final Maps); or

B. An extension of time has been granted in compliance with Section 9.81.130.

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.

9.81.130 - 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 9.81.120, 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 original review authority may grant one 12-, 24-, or 36-month extension to the initial time limit, only after finding that:

1. There have been no changes to the provisions of the General Plan, any applicable Specific Plan or this Land Use 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 General Plan or other standards of this Land Use 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 36 months may be granted only in compliance with Map Act Section 66452.6 or 66463.5.

CHAPTER 9.82 – PARCEL MAPS AND FINAL MAPS

Sections:

9.82.010 - Purpose of Chapter
9.82.020 - Parcel Maps
9.82.030 - Waiver of Parcel Map
9.82.040 - Parcel Map Form and Content
9.82.050 - Filing and Processing of Parcel Maps
9.82.060 - Parcel Map Approval
9.82.070 - Final Maps
9.82.080 - Final Map Form and Content
9.82.090 - Filing and Processing of Final Maps
9.82.100 - Final Map Approval
9.82.110 - Supplemental Information Sheets
9.82.120 - Amendments to Recorded Maps

9.82.010 - 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.

9.82.020 - Parcel Maps

As required by Sections 9.80.070 (Type of Subdivision Approval Required), and 9.81.100 (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 9.82.030. A Parcel Map shall be prepared, filed and processed as set forth in Section 9.82.040, et seq.

9.82.030 - 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, provided that the review authority shall first find that the proposed subdivision complies with the requirements of this Land Use 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.

9.82.040 - 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 Community Development Department.

9.82.050 - 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 9.81.020 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 Land Use Code and the Map Act.

B. **Review of Parcel Map.** The City Engineer shall:

1. Determine whether all applicable provisions of this Land Use 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 Community Development 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.

9.82.060 - Parcel Map Approval

A. After determining that the Parcel Map is in compliance and is technically correct in compliance with Section 9.82.040, the Director shall forward the Parcel Map to the City Engineer for approval.

B. The City Engineer may accept or reject dedications and offers of dedication that are made by a statement on the Parcel Map in compliance with Map Act Section 66463(b).

C. After approval of a Parcel Map, the City Engineer shall transmit the map to the County Recorder for filing in compliance with Map Act Section 66450.

9.82.070 - Final Maps

As required by Section 9.80.070 (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 9.82.080 et seq.

9.82.080 - 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 Community Development 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.

9.82.090 - Filing and Processing of Final Maps

A. Filing with City Engineer. The Final Map, together with all data, information and materials required by Section 9.82.080 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 Land Use 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 Land Use 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 Community Development 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 Final 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.

9.82.100 - Final Map Approval

After determining that the Final Map is in compliance and is technically correct in compliance with Section 9.82.080, 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 Land Use 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 Land Use 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 Land Use 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 9.88.070 (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 City Clerk shall transmit the Final Map to County Recorder for filing.

9.82.110 - Supplemental Information Sheets

In addition to the information required to be included in Parcel Maps and Final Maps (Sections 9.82.040 and 9.82.080, 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 9.82.040 (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.

9.82.120 - 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 Chapter 3, Article 7 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 9.88.070 (Improvement Agreements and Security), a new tentative and Parcel or Final Map shall be filed and approved as required by Section 9.80.070 (Type of Subdivision Approval Required).

CHAPTER 9.84 – ADDITIONAL SUBDIVISION PROCEDURES

Sections:

9.84.010 - Purpose of Chapter
9.84.020 - Certificates of Compliance
9.84.030 - Condominiums
9.84.040 - Condominium Conversion
9.84.050 - Lot Line Adjustment
9.84.060 - Parcel Merger
9.84.070 - Reversion to Acreage

9.84.010 - 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.

9.84.020 - 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 and decision. The City Engineer and Zoning Administrator shall review the completed application in the light of public records and applicable law.

1. If the Zoning Administrator, based on the recommendation of the City Engineer, determines that the parcel is in compliance with the provisions of this Land Use Code Article and the Map Act, a Certificate of Compliance shall be issued for the parcel and delivered to the County Recorder for recordation.

2. If the Zoning Administrator, based on the recommendation of the City Engineer, is unable to determine that the parcel is in compliance, the procedures identified in Map Act Section 66499.35 shall apply.

9.84.030 – 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 9.81 (Tentative Map Filing and Processing). Chapter 9.82 (Parcel Maps and Final Maps) determines whether a Parcel or Final Map shall also be filed.

9.84.040 - Condominium Conversion

A condominium conversion is the conversion of real property to a common interest development as defined by Section 1351 of the California Civil Code.

A. Approvals required. A conversion shall require the approval of a Tentative Map, and Parcel or Final Map, except where a Parcel Map, or Tentative and Final Map are waived in compliance with Map Act Sections 66428(b) or 66428.1, for the conversion of a mobile home park. If a Parcel Map is waived, a Tentative Map shall still be required.

B. Application filing and processing. A Tentative Map for a condominium conversion shall be filed in the same form, have the same contents and accompanying data and reports and shall be processed, approved or disapproved in the same manner as set forth in Chapter 9.81 (Tentative Map Filing and Processing), except that an application for the conversion of residential units shall also include the following information and materials. Where noted, final versions of these items shall also be submitted with the Parcel Map or Final Map.

1. Tentative Map. The Tentative Map for a condominium, community apartment project, or the conversion of five or more existing dwelling units to a stock cooperative need not show the buildings or the manner in which the airspace above the property shown on the map are to be divided. However, the applicant shall provide an illustration of how subdivision will occur to enable verification of the accuracy of the legal descriptions on deeds for the transfer of ownership of the units.

2. Verification of stock cooperative vote. If the development being converted to a condominium is a stock cooperative, the application shall also include verification of the vote required by Map Act Section 66452.10.

3. Relocation assistance program. A program proposed by the applicant that will assist tenants displaced through the conversion in relocating to equivalent or better housing.

4. Building history. A building history detailing known information regarding the use and construction of the building or buildings, and the improvements covered by the application, and including:

   a. The date of construction of the major elements of the project improvements;

   b. A statement of the major uses of the improvements since construction;

   c. A description of major repairs since construction of the project improvements;

   d. A statement identifying the current owners of the buildings and underlying land;

   e. The name and address of each present tenant of the project.

   When the applicant does not have information regarding any of the above items, the Building History shall so state.

5. Structural report. A structural report prepared by appropriately licensed contractor or engineer and approved by the Building Official, disclosing the condition of the following items:

   a. Plumbing waste system;

   b. Electrical service switches;

   c. Interior electrical wiring;

   d. Natural gas piping and appliance venting;

   e. Structural elements;

   f. Room sizes, light, and ventilation;

   g. Compliance with zoning regulations;

   h. Any other condition detrimental to the health, safety, and welfare of the public, the owners, and the occupants of the building.

   A final version of this report, in the form of a Report to Prospective Purchasers shall be filed with the Director at the same time as the Parcel Map or Final Map for the project.

6. Pest control report. A structural pest control report prepared by a licensed structural pest control operator, in compliance with Business and Professions Code Section 8516.

7. Proposed public report application. A copy of the proposed application to the California Department of Real Estate for Subdivision Public Report, on the current forms required by the Department of Real Estate. Said application need not contain exhibits regarding the availability of utility services or the organizational documents of the project. A final version of the public report shall be filed with the Director at the same time as the Parcel Map or Final Map for the project.

8. Proposed project organization. A written description regarding the proposed project organization including the use and control of the common elements and recreation facilities within the project. The statement shall detail any proposed control of common facilities to be retained by the developer or by the owner, or maintained by a Homeowners Association of unit owners, or any other organization. A final version of the organization documents shall be filed with the Director at the same time as the Parcel Map or Final Map for the project.

C. Requirements for approval. A residential condominium conversion shall comply with the following requirements, in addition to the requirements of this Article for the approval of a Tentative Map, Parcel Map, and Final Map.

1. Code compliance. The project shall comply with all applicable standards of the City's Housing Code and the Building Code, in effect on the date that the last building permit was issued for the structure or structures. The project shall also comply with the following standards:

   a. Utilities. The consumption of gas and electricity within each dwelling unit shall be separately metered so that the unit owner can be separately billed for each utility. Each unit shall have its own panel board for all electrical circuits which serve the unit. A water shut-off valve shall be provided for each unit. The requirements of this Subsection may be waived where the Building Official finds that such would not be practicable.

   b. Impact sound insulation. Wall and floor-ceiling assemblies shall conform to the sound insulation performance criteria promulgated in California Administrative Code, Section 1092, and may only be replaced by another floor covering that provides the same or greater insulation.

   c. Energy conservation. Each dwelling unit shall comply with the energy insulation standards promulgated in Title 24, California Administrative Code, Part 6, as amended, for residential buildings.

2. Compliance with Land Use Code requirements. The project shall comply with all landscape, parking and design provisions, and any other applicable Sections of this Land Use Code at the time of conversion.

3. Performance. Any required structural repair work shall be completed or funds for the completion of the work shall be either escrowed or bonded to the satisfaction of the Director to assure completion of the work prior to the closing of escrow for the sale of any unit in the project. Any physical elements of the project found by the Director to impose a hazard to the health and safety of the occupants of the project shall be corrected prior to the approval of the Final or Parcel Map, or funds shall be adequately escrowed or bonded to the satisfaction of the Director to assure completion of the corrective work, prior to the closing of escrow of any unit in the project.

4. Report to prospective buyers. The report to prospective buyers describing the condition of the various physical elements of the project shall have been submitted to and approved by the Director. The Director's requirements for the report and its contents may be appealed by the subdivider to the Planning Commission.

   The subdivider shall provide each prospective purchaser with a copy of the Report prior to the purchaser executing any purchase agreement or other contract to purchase a unit in the project and the subdivider shall give the purchaser sufficient time to review the Report.

5. Provisions for present tenants. The subdivider shall comply with each of the following requirements for the present tenants of the project.

   a. Each present tenant of each unit shall be given a non-transferable right of first refusal to purchase the unit occupied at a price no greater than the price offered to the general public. The right of first refusal shall extend for at least 90 days from the date of approval of the Final Subdivision Map or Parcel Map. Tenants who are not current in their contractual obligations under their rental agreements or lease shall not be entitled to the right of first refusal.

   b. Each non-purchasing tenant, not in default under the obligations of the rental agreement or lease under which they occupy their unit, shall have not less than 90 days from the date of receipt of notification from the subdivider of his or her intent to convert, or from the filing date of the Final Subdivision Map or Parcel Map, whichever date is later, to find substitute housing and to relocate.

   c. A tenant with more than 30 days remaining on a lease who receives a notice of intent to convert shall, at any time after receipt of such notice, have the right to terminate their lease with 30 days written notice to the landlord. Termination shall be without penalty or other termination charge to the tenant.

   d. The subdivider shall, where possible, allow an extension of term to permit a tenant to complete a school semester or quarter, as the case may be.

   e. Existing tenant's rent shall not be increased from the level existing three months prior to the date of application for a Tentative Map until the tenant purchases the unit, or tenant relocation takes place or the tentative map application is denied. This period shall not exceed 12 months.

D. Inclusionary housing requirement. The conversion of units shall comply with the inclusionary housing requirements in Section 9.32.030 A.2.

E. Staff report. The staff report on the Tentative Map for the condominium conversion (Section 9.84.040) shall be provided to the subdivider and each tenant of the subject property at least three days before any hearing or action on the Tentative Map by the Planning Commission or Council.

F. Public notice. The following notice shall be provided in addition to that required by Chapter 9.74 (Public Hearings):

   1. Tenant notice. The subdivider shall give notice to all existing or prospective tenants as set forth in Map Act Sections 66452.8 and 66452.9, and shall provide the Department satisfactory proof that the notice was given; and

   2. Public hearing notice. Notice of the public hearing(s) on the Tentative Map shall be provided to all tenants of the subject property, as required by Map Act Section 66451.3.

G. Approval of conversion, required findings.

1. Time limit, stock cooperatives. The approval or disapproval of the conversion of an existing building to a stock cooperative shall occur within 120 days of the application being found complete in compliance with Section 9.81.030 (Tentative Map Filing, Initial Processing). The 120-day time limit may be extended by mutual consent of the subdivider and the City.

2. Conversion findings, residential projects. Approval of a tentative or Final Map for a subdivision to be created from the conversion of residential real property into a condominium project, community apartment project or stock cooperative shall not be granted unless the findings set forth in Map Act Section 66427.1 are first made.

H. Completion of conversion. The filing, approval and recordation of a Parcel Map or Final Map in compliance with Chapter 9.82 (Parcel Maps and Final Maps) shall be required to complete the subdivision process, except where a Parcel Map, or Tentative and Final Map are waived for the conversion of a mobile home park in compliance with Map Act Section 66428(b).

9.84.050 - 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. A proposed Lot Line Adjustment involving property within the Coastal Zone shall also require Coastal Development Permit approval in compliance with Section 9.72.030 (Coastal Permits), prior to approval of the Lot Line Adjustment, except where the site is in a Categorical Exclusion area as defined by the Coastal Act.

9.84.060 - 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 Land Use 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.** A proposed parcel merger involving property within the Coastal Zone shall also require Coastal Development Permit approval in compliance with Section 9.72.030 (Coastal Permits) prior to the approval of the merger, except where the site is in a Categorical Exclusion area as defined by the Coastal Act.

9.84.070 - Reversion to Acreage

A. A Reversion to Acreage shall be initiated, processed, reviewed, and approved or denied in compliance with Map Act Chapter 6, Article 1.

B. 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. A Parcel Map may be filed to revert to acreage land previously subdivided that consists of four or fewer contiguous parcels, in compliance with Map Act Section 66499.20-1/4.

CHAPTER 9.86 – DEDICATIONS AND EXACTIONS

Sections:

9.86.010 - Purpose of Chapter
9.86.020 - Applicability
9.86.030 - Park Land Dedications and Fees
9.86.040 - Reservations of Land for Public Facilities
9.86.050 - Right-of-Way Dedications

9.86.010 - Purpose of Chapter

This Chapter establishes standards for subdivider dedications of land or payment of fees, in conjunction with subdivision approval.

9.86.020 – 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.

9.86.030 - Park Land Dedications and Fees

A. Purpose. This Section provides for the dedication of land and/or the payment of fees to the City for park and recreational purposes as a condition of the approval of a Tentative Map. This Section is enacted as authorized by the provisions of Chapter 4, Article 3 of the Map Act, also known as the "Quimby Act," and as prescribed through the Parks and Recreation Element of the General Plan.

B. Applicability.

1. Land dedication and/or fee payment required. As a condition of Tentative Map approval, the subdivider shall dedicate land and/or pay a fee, at the option of the City, in compliance with this Section for the purpose of developing new, or rehabilitating existing park or recreation facilities to serve the subdivision.

2. Exemptions. The provisions of this Section do not apply to industrial or commercial subdivisions, condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added, or to any other subdivision exempted by Map Act Section 66477.

C. Review authority. The review authority for determinations required by this Section shall be the same as that assigned by Section 9.80.060 for the type of subdivision being processed. When the review authority considers a Tentative Map for a residential subdivision of 51 or more parcels, or a residential subdivision of five or more parcels that includes a proposal to dedicate parkland, the matter shall first be referred to the Parks and Recreation Committee for a recommendation to the review authority as to whether the proposed dedication conforms to the Parks and Recreation Element of the General Plan, and any other applicable City plan.

D. Amount of parkland required.

1. General standard. It is found and determined that the public interest, convenience, health, welfare, and safety require that five acres of property for each 1,000 persons residing within this City be devoted to neighborhood and community park and recreational purposes.

2. Dedication requirement for residential subdivisions. The amount of contiguous acreage required to be dedicated by a residential subdivider for park and recreational purposes shall be based upon the number of dwelling units proposed in the subdivision. The required dedication shall be computed using the following formula:

   X = .005(U)(P)

   Where:

   X = Amount of parkland required, in acres.

   U = Total number of approved new dwelling units in the subdivision. In the case of a subdivision in a zone that allows multiple dwellings per lot, the number of units shall be the maximum allowed by the zone unless the total number is limited to a specific number by condition of approval or other City requirement.

   P = Average number of persons per dwelling unit within the City, from the most recent Federal census.

   In addition, the subdivider shall, without credit, provide improvements in compliance with Subsection H.

E. Formula for fees in lieu of land. If the review authority determines that:

1. If the entire parkland obligation for a proposed residential subdivision is not satisfied by dedication in compliance with Subsection D. above, the subdivider shall pay a fee to the City in lieu of dedication, as a condition of Tentative Map approval. The fee shall equal the acreage of parkland obligation derived from the formula in Subsection D., less the amount of parkland, if any, offered for dedication by the subdivider and accepted by the City, times the average per-acre fair market value per buildable acre for the appropriate park planning area, plus 20 percent toward the cost of off-site improvements (e.g., utility line extensions).

2. For purposes of determining the required fee, the term "fair market value" shall be based upon an appraisal within the past 12 months, and approved by the Council, immediately prior the receipt of the Final Map by the Council. The subdivider shall notify the City of the expected submittal date of the Final Map at least twelve weeks prior to the submittal of the Final Map to the Department, to permit the City to select a certified land appraiser and carry out the appraisal. The subdivider shall pay the City's costs for an independent appraiser.

3. If the subdivider or City staff object to the valuation, they may appeal the determination in compliance with Chapter 9.76 (Appeals); provided that the burden of proof on all issues shall lie with the subdivider.

F. Fees only. Only the payment of fees shall be required in subdivisions of 50 parcels or less, except that when a condominium project, stock cooperative, or community apartment project exceeds 50 dwelling units, dedication of land may be required even though the number of actual parcels may be less than 50.

G. Criteria for requiring dedication and fees. In a subdivision of 51 or more parcels, the City may require the subdivider to dedicate both land and pay a fee, as follows:

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

   a. The General Plan, and the compatibility of dedication with the General Plan;

   b. Topography, geology, access, size, shape and the location of land in the subdivision available for dedication;

   c. Feasibility of dedication; and

   d. Availability of existing park property.

2. Procedure for determining land or fee. The review authority shall determine whether the subdivider shall dedicate land, pay in-lieu fees, or provide a combination of both, at the time of Tentative Map approval. The determination of the review authority shall be based on a report and recommendation from the Director, and a recommendation from the Parks and Recreation Committee. The recommendations and the action of the review authority shall consider the factors in Subsection G.1 above, and shall include the following:

   a. The amount of land required;

   b. Whether a fee shall be charged in lieu of land;

   c. Whether land and a fee shall be required;

d. The location and suitability of the park land to be dedicated or use of in-lieu fees; and

e. The approximate time when development of the park or recreation facility shall commence.

The determination of the City as to whether land shall be dedicated, or whether a fee shall be charged, or a combination thereof, shall be final and conclusive.

3. Land and fees. A requirement for both land dedication and fee payment shall comply with the following standards.

a. When only a portion of the land to be subdivided is proposed in the General Plan or applicable specific plan as the site for a local park, that portion shall be dedicated for local park purposes, and a fee computed as provided by Subsection E. shall be paid for any additional land that would have been required to be dedicated by Subsection D.

b. When a major part of the local park or recreational site has been acquired by the City and only a small portion of land is needed from the subdivision to complete the site, the remaining portion shall be dedicated, and a fee computed as provided by Subsection E. shall be paid in an amount equal to the value of the land that would otherwise have been required to be dedicated by Subsection D. The fees shall be used for the improvement of existing City parks or recreational facilities serving the community, with consideration for parks and facilities impacted by the subdivision.

4. Credit for improvements. The cost of park and recreational improvements and equipment provided by the developer on the dedicated land shall be a credit against the required dedication of land or fees. Off-site improvements shall not be credited. The park and recreation improvements and equipment shall be approved by the Parks and Recreation Committee prior to any credit being reviewed and/or granted.

5. Credit for private recreation facilities. A subdivider may be credited for the provision of private recreation facilities within the subdivision, as follows.

a. Eligibility. Subdivisions meeting either of the following criteria shall be eligible to receive credit for private recreation facilities:

(1) In compliance with Government Code Section 66477, the subdivision involves a planned development, real estate development, stock cooperative, or community apartment project, as defined in Business and Professions Code Sections 11003, 11003.1, 11003.2, 11003.4 and 11004, respectively; and condominiums, as defined in Civil Code Section 783; or

(2) Where the review authority determines that proposed private recreation facilities are in the best interest of the City, not necessarily the subdivision, based on a recommendation from the Parks and Recreation Committee.

b. Amount of credit. The maximum amount of credit considered for private recreation facilities (improvements) shall be 50 percent of the land or fees specified in compliance with this Section. The amount of credit shall be determined by the review authority based on a recommendation from the Parks and Recreation Committee.

c. Characteristics of private recreation facilities given credit. Private recreation facilities shall be accepted for credit only if the review authority determines that they will meet the requirements of the Parks and Recreation Element of the General Plan, and any other applicable City plans. All private recreation facility improvements receiving credit shall be recorded on the Final Map and maintained in a safe and operable condition for the duration of the development.

H. Improvement requirements. When land is required to be dedicated in compliance with this Section, the subdivider shall provide the following improvements prior to the acceptance of the dedication by the City. These improvements shall not be credited toward any required in-lieu fees.

1. Full street improvements and utility connections including, but not limited to, curbs, gutters, street paving, traffic control/calming devices, street trees, sidewalks, and lighting;

2. Fencing along property lines of portions of the subdivision contiguous to the dedicated land, where required by the review authority;

3. Improved drainage through the site; and

4. Other minimal improvements which the review authority determines to be essential to the acceptance of the land for recreational purposes.

The Council reserves the right to accept the improvements prior to agreeing to accept the dedication of land and to require in-lieu fee payments if the Council determines that the improvements are unacceptable.

I. Conveyance of land, payment of fees.

1. Land. Real property being dedicated for park purposes shall be conveyed by the Parcel or Final Map in fee simple absolute, to the City by the subdivider, free and clear of all encumbrances except those which, in the opinion of City Attorney, will not interfere with use of the property for park and recreational purposes, and which the Council agrees to accept. The subdivider shall provide all fees and instruments required to convey the land, and title insurance approved by the City Attorney in favor of the City in an amount equal to the value of the land.

2. Fees. The amount of required fees shall be deposited with the City at the time of submittal of a Parcel or Final Map. The City Treasurer shall deposit the fees into the Subdivision Park Trust Fund, or its equivalent.

a. Timing of payment. Fees required in compliance with this Section shall be paid to the City prior to Parcel Map or Final Map recordation.

b. Use of funds. The money collected in compliance with this Section, including accrued interest, shall be used only for the purpose of acquiring necessary land, developing new or rehabilitating existing park or recreational facilities, or related improvements, in the manner specified in the Parks and Recreation Element of the General Plan.

c. Distribution of unused fees. Fees not used within five years in accordance with Map Act Section 66477, less an administrative charge, shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots in the subdivision.

d. Annual report. As part of the City's budget, the Finance Director shall report to the Council at least annually on income, expenditures, and status of the Subdivision Park Trust Fund.

e. Facility development schedule. As specified in the Parks and Recreation Element of the General Plan, the City shall develop and maintain a schedule in compliance with Government Code Section 66477, specifying how, why, when, and where it will use the land or fees, or both, to develop park or recreational facilities to serve residents of the subdivision.

9.86.040 - 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.

9.86.050 - 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, sidewalks, pathways, 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, sidewalks, pathways, alleys, drainage facilities, and other public utilities.

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. The review authority through an ordinance, may require a dedication if it 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 or deemed necessary for the development of bikeways, hiking or equestrian trails in the General Plan, Parks and Recreation or Bicycle and Pedestrian Master Plans, applicable specific plan, or implementing legislation, the subdivider shall dedicate land as is necessary to provide for these ways.

CHAPTER 9.88 – SUBDIVISION DESIGN AND IMPROVEMENT REQUIREMENTS

Sections:

9.88.010 - Purpose of Chapter
9.88.020 - Applicability of Design and Improvement Standards
9.88.030 - Subdivision Design and Improvement Standards
9.88.032 - Subdivision Design and Improvement Standards - Special Residential Subdivisions
9.88.040 - Site Preparation and Subdivision Construction
9.88.050 - Improvement Plans
9.88.060 - Installation of Improvements
9.88.070 - Improvement Agreements and Security
9.88.080 - Soils Reports

9.88.010 - 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 and any applicable Specific Plan.

9.88.020 - Applicability of Design and Improvement Standards

The requirements of this Chapter apply as follows:

A. Extent of required improvements. Each subdivision 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 approved or 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 9.81.060 (Findings Required for Tentative Map Approval), shall be described in conditions of approval adopted for each approved Tentative Map (Section 9.81.070). 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 Chapter 4, Article 6.

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 9.80.090 (Exceptions to Subdivision Standards).

9.88.030 - Subdivision Design and Improvement Standards

This Section establishes standards for the design and layout of subdivisions, and the design, construction or installation of public improvements within subdivisions. These standards are intended to ensure, through careful site evaluation and design, the creation of new usable parcels that are consistent with the General Plan and any applicable specific plan. These standards apply to all proposed subdivisions as noted, except as otherwise provided by Section 9.88.032 (Subdivision Design and Improvement Standards - Special Residential Subdivisions)

A. General design principles. Subdivision design shall be based on an analysis of the natural conditions and features of the site. To the maximum extent feasible, development shall be located and designed to preserve natural features and avoid areas of environmental sensitivity, including wetlands, significant or mature trees or stands of trees, creek side riparian habitat areas, floodplain areas, and areas with slopes greater than 25 percent. Residential structures, including decks and balconies, shall not extend into significant natural areas, as determined by the review authority

B. Density of residential development. The maximum number of dwelling units permitted within a proposed subdivision shall not exceed the density established by the General Plan, the maximum number of dwelling units permitted by the applicable zoning district, current state density bonuses, or the City's affordable housing requirements as outlined in Chapter 9.32.

C. 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, and Chapter 9.56 (Solar Siting and Solar Access). Consideration should be given to east-west orientation of streets to provide maximum solar access.

D. Gated or walled 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 dedicated streets or sidewalks within the development.

E. Hillside subdivisions. Each proposed subdivision shall comply with the requirements of Chapter 9.52 (Hillside Development), as applicable.

F. Sidewalks, streets, blocks, and parcels.

1. Pedestrian walkways away from street frontages. 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, after consultation with the Transportation Safety Committee.

2. Bicycle paths. The subdivider shall provide bicycle paths within an approved subdivision in compliance with Section 66475.1 of the Subdivision Map Act, the Transportation Element of the General Plan, and any other applicable City plan.

3. Streets. The layout, design, and construction of proposed streets shall comply with the General Plan, the following requirements, and the energy conservation standards of Subsection C.

a. Street design standards.

(1) Proposed streets, blocks, and parcels shall be arranged so that each proposed parcel has direct access to a public street or alley. Where direct access is infeasible, proposed parcels may be served by a common access driveway easement that connects to a public street; provided that the number of parcels allowed by the review authority to be served by an easement shall be limited based on consideration by the review authority of the public safety of proposed access, ingress, and egress, and parking, utilities, drainage, and environmental issues.

(2) The width and number of traffic and parking lanes of proposed streets shall comply with the City's Standard Details, provided that subdivision design may utilize narrow or "skinny" streets and various traffic calming approaches as approved by the review authority, in compliance with the General Plan.

(3) Alleys are encouraged for access to vehicle parking areas.

b. Street location/alignment. The layout of proposed streets shall comply with the City's General Plan, subject to approval by the City Engineer. Whether or not shown on the General Plan, 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. Cul-de-sac streets may be approved only in compliance with Subsection F.3.d. (Cul-de-sac and other dead-end streets).

c. Street extensions and stub streets.

(1) 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.

(2) 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 Planning Commission, a temporary connection to another street, or a temporary turnaround, shall be provided by the subdivider.

d. Cul-de-sac and other dead-end streets. Subdivision design shall not include cul-de-sac or other dead-end streets except where through streets cannot be provided because of existing development or other physical barrier or environmental feature requiring protection and/or preservation (e.g., a creek channel).

e. Intersections. 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. Traffic calming and pedestrian/bicycle safety features shall be incorporated into the design after consultation with the Transportation Safety Committee.

f. Curb, gutters, and sidewalks. Where authorized by the review authority, sidewalks may be furnished on one side of the street only. Curbing and gutters shall be provided as required by the City's Standard Details, and as required by the review authority.

(1) In general, curbing and gutters are appropriate for street drainage, safety, and the delineation and protection of the pavement edge.

(2) Where curbing is not required, some other type of edge definition and stabilization shall be specified by the review authority.

g. 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.

h. Street lighting. All proposed subdivisions shall provide street lighting facilities designed and constructed in compliance with the City's improvement standards and specifications, provided that the review authority shall ensure that:

(1) The illumination of streets shall be unobtrusive and the lowest intensity compatible with safety; and

(2) No lighting shall be allowed that results in illumination above the tree canopy.

The subdivider shall pay any street light maintenance and energy fee required by the City, through an assessment district.

i. Street signs and street names.

(1) Street names. Names proposed for public and private streets within a proposed subdivision shall be approved by the review authority. The duplication of an existing street name within the same area shall not be allowed in a new subdivision unless the street is an obvious extension of an existing street.

(2) Street signs. The subdivider shall provide a minimum of one street name sign in compliance with the City's improvement standards and specifications at each street intersection.

4. Blocks. Proposed subdivision blocks shall comply with the following standards.

a. Block length. Block faces should be 300 feet in length and shall not exceed a length of 500 feet except as approved by the Review Authority. No block perimeter shall exceed 2,000 feet.

b. 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.

5. Parcels. The size, shape and arrangement of proposed parcels shall comply with this Section, and with any other applicable General Plan policy, specific plan requirement, or other Municipal Code provision.

a. General parcel design standards. Proposed parcels shall be designed with lot boundaries that are regular in shape, and in compliance with the following standards.

(1) 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 Land Use Code.

(2) No parcel shall be created that is divided by a City boundary line.

(3) 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.

(4) Clustering of lots with common open space areas and/or common parking lots is encouraged, in compliance with the General Plan.

b. 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, and except as provided by Chapter 9.32 (Affordable Housing Requirements) or Section 9.72.070 (Planned Development Permit).

(1) 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:

(a). A vehicular or non-vehicular access easement through the parcel;

(b). An easement for an open drainage course, whether a ditch, natural channel or floodway; and

(c). The "flag pole" (access strip) of a flag lot.

(2) Minimum lot area requirements for common interest projects. The minimum lot area requirements of Article 2 for the applicable zoning district 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 structure.

c. Parcel dimensions. The dimensions of new parcels shall comply with applicable provisions of Article 2, or as otherwise required by the review authority.

d. 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 C.

(1) Street frontage required. Except where determined by the review authority to be infeasible, each proposed parcel shall have frontage on a public street or improved alley. 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 F.5.d.4 (Flag lots) or the curving of the street frontage makes it infeasible.

(2) 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.)

(3) Cul-de-sac parcels. Where cul-de-sac parcels are allowed by the review authority, the minimum street frontage width for each parcel shall be 25 feet. The minimum depth of a parcel accessed by a cul-de-sac shall be an average of 90 feet.

(4) 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 15 feet for one lot and 20 feet for access to two or more lots; provided that the review authority may require additional width depending upon the length of the flag pole and traffic safety sight distance considerations.

e. Curb cuts and driveways. Whenever feasible, curb cuts serving adjacent uses shall be combined to minimize the number of entrances onto a public right-of-way. No curb island is allowed when it is less than six feet from top of curb cut to top of curb cut between uses. Proposed parcels shall be designed to accommodate driveways designed in compliance with Section 9.36.100 (Driveways and Site Access).

G. Landscaping. Landscaping shall be provided in compliance with Chapter 9.34 (Landscape Standards). The review authority may also require a subdivider to provide landscape buffers at appropriate locations to create a visual screen and minimize adverse impacts where a proposed subdivision abuts a major street or railroad, or includes more than one land use or housing type.

H. Monuments. The subdivider shall install monuments in compliance with the requirements of the City Engineer, and Map Act Chapter 4, Article 9.

I. Off-site work. The subdivider may be required to upgrade existing facilities to comply with increased capacity demands created by the subdivision, including road paving, sidewalk installation, etc.

J. 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.

K. Public facilities and utilities.

1. 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 provisions through the circulation element of the General Plan for bridge crossings and major thoroughfares by ordinance.

2. Fire hydrants. The subdivider shall install fire hydrants of sizes and at locations approved by the Fire Chief and the Public Works Director.

3. 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.

   a. Underground utilities. 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 9.44 (Telecommunications Facilities).

      (1) When 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 compliance with the requirements of this Section and shall make the necessary arrangements with all affected utility companies for facility installation.

      (2) 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.

   b. 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.

   c. 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.

4. 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.

5. 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.

6. Storm drainage. Storm water runoff from the subdivision shall be collected and conveyed by an approved storm drain system. The use of natural drainage techniques in subdivision design is encouraged.

   a. Design principles. Natural drainage patterns shall be preserved to minimize potential slippage and flooding. On-site water retention is encouraged to reduce runoff to City facilities. Building site drainage shall be away from structures and to streets.

   b. System capacity. The storm drain system shall be designed for ultimate development of the drainage area.

   c. Protection of off-site properties. The storm drain system shall provide for the protection of abutting and other off-site properties that would be adversely affected by any increase in runoff attributed to the development; off-site storm drain improvements may be required to satisfy this requirement.

   d. Improvement of easement. Any easement for drainage or flood control shall be improved as specified by the City Engineer.

7. 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.

8. 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.

9.88.032 - Subdivision Design and Improvement Standards - Special Residential Subdivisions

In order to implement the Housing Element and add to the diversity of local housing opportunities, the following standards apply to special residential subdivisions, which are permitted in the Residential Low-Density (RL) zone. Other than the following standards, the other subdivision standards and requirements of this Chapter shall continue to apply.

A. Application requirements. An applicant proposing to use the special residential subdivision standards of this Section shall clearly state their request in writing at the time of filing the Tentative Map.

1. Occupancy by lower income households required.

a. These standards shall only be applied in a subdivision of four or fewer lots where at least one lot will be reserved for occupancy by a low-income household.

b. These standards shall only be applied in a subdivision of five or more lots where at least 20 percent of the lots will be reserved for occupancy by low-income households. If the subdivision contains 10 or more lots, at least 10 percent of the total number of lots shall be reserved for households with very low incomes.

2. Design standards.

a. Minimum lot area. In the RL zone, the minimum lot size allowed shall be 4,000 square feet.

b. Street access. The following standards shall be applied where the proposed road will provide access only to the proposed project and immediately adjacent parcels.

(1) Public streets will be as narrow as can safely be permitted. Turn-outs shall be provided as necessary to allow for passing movements. One-way streets may be specified.

(2) Private roads may be permitted, provided that adequate provisions are made for long-term maintenance, and that the roads provide access only to parcels within the proposed subdivision.

c. Pedestrian, bicycle, equestrian access. Trails, paths, or sidewalks are to be provided. They may be located within the easements on private property and may be on only one side of any roadway, unless a logical extension of adjoining trails, paths, or sidewalk requires construction on both sides of the roadway.

d. On-street and off-street parking. Off-street parking shall be provided at a ratio of at least one space for each primary dwelling and one additional space for each second unit on each lot. Special "coves" or turnouts for on-street parking may be required to accommodate guest or overflow parking.

9.88.040 - Site Preparation and Subdivision Construction

Proposed subdivision grading, and related erosion and sediment control measures, shall comply with all applicable provisions of Article 6 (Site Development Regulations).

9.88.050 - 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. Plans shall be submitted in hard copy and electronic form as required by the City Engineer.

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.

9.88.060 - Installation of Improvements

Subdivision improvements required as conditions of approval of a Tentative Map in compliance with this Chapter (see Section 9.88.050) 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 9.88.060, and before the approval of a Parcel or Final Map in compliance with Sections 9.82.060 (Parcel Map Approval) or 9.82.100 (Final Map Approval), except where:

1. Improvements are deferred in compliance with Section 9.88.070 (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 9.88.070 (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.

9.88.070 - Improvement Agreements and Security

A subdivider may file a Parcel or Final Map before completion of all the improvements required by this Land Use 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 in a form acceptable to 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. Provide that if the subdivider fails to complete 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 to insure full and faithful performance and to insure 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.

   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. 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.

9.88.080 - 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 soil 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 and/or Building Official before approval of a Parcel or Final Map.

2. Preliminary soils report waiver. The preliminary soils report may be waived if the City Engineer and/or Building Official 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 and/or Building Official.

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 and/or Building Official determines that conditions warrant, a geologic investigation and report may also be required.

ARTICLE 9

Land Use Code Administration

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CHAPTER 9.90 -NONCONFORMING USES, STRUCTURES, AND PARCELS

Sections:

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9.90.040 - Nonconforming Parcels
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9.90.010 - Purpose and Intent of Chapter

A. Purpose. This Chapter provides regulations for nonconforming uses, structures, and parcels that were lawful before the adoption, or amendment of this Land Use Code, but which would be prohibited, regulated, or restricted differently under the current terms of this Land Use Code, or future amendments.

B. Intent. It is the intent of this Chapter to discourage the long-term continuance of nonconformities, providing for their eventual elimination, while allowing them to exist under the limited conditions identified in this Chapter as long as they do not create a public nuisance.

C. Detrimental to orderly development. The continuance of a nonconforming use or structure is generally detrimental to the orderly development of the City and the general welfare of its residents and is particularly detrimental to the welfare of persons and property in the vicinity of any nonconformity.

D. Illegal use or structure. A use or structure that was established or constructed in violation of the applicable zoning regulations in effect at the time of establishment or construction, and that is not in compliance with the applicable regulations of this Land Use Code, is not a nonconforming use or structure, and is in violation of this Code.

9.90.020 - Nonconforming Uses

A nonconforming use may be continued, transferred, or sold, only in compliance with the provisions of this Section.

A. Replacing a nonconforming use with a similar uses.

1. A nonconforming use may be changed to another nonconforming use, provided that the new nonconforming use does not increase the degree or intensity of the nonconformity as approved through a Use Permit.

2. Where a nonconforming use is changed to another nonconforming use of a more restrictive classification, it shall not thereafter be changed to a use of a less restrictive classification.

B. Enlargement or expansion of a nonconforming use of land or structure. A nonconforming use of land or structure shall not be enlarged or expanded in size or capacity, or extended to occupy a greater area, or increased in intensity or nonconformity.

C. Loss of nonconforming status.

1. If a nonconforming use of land, or a nonconforming use of a conforming structure, is discontinued for a continuous period of at least 12 months, the rights to legal nonconforming status shall terminate.

2. The nonconforming use shall not be resumed once the use has ceased for at least 12 months.

3. A nonconforming use shall be deemed to have ceased when it has been discontinued, either temporarily or permanently, whether or not the discontinuance was with the intent to abandon the use.

4. 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 receipts/records to document continued operation.

5. Without further action by the City, any further use of the site shall comply with all of the regulations of the applicable zoning district and all other applicable provisions of this Land Use Code.

9.90.030 - Nonconforming Structures

A nonconforming structure may be continued, transferred, or sold, only in compliance with the provisions of this Section.

A. Nonconforming status. Except as provided by Section 9.90.050.C (Nonconforming single- and multi-family dwelling units), nonconforming status shall terminate if a nonconforming structure is involuntarily damaged or destroyed by accident or natural occurrence, provided that the structure may be repaired and reoccupied only as follows:

1. Relocation. Nonconforming structures cannot be relocated unless they are brought into compliance with this Land Use Code.

2. Structure damaged up to 50 percent. A nonconforming structure involuntarily damaged up to 50 percent of its replacement cost (as defined in Subsection A.6.b., below) may be reconstructed, repaired, restored, and used as before, provided that the restoration is initiated (as defined in Subsection A.6.a., below) within 180 days, it does not increase the nonconformity of the structure, and is substantially completed within 12 months from the date of application for the required Building Permit.

3. Structure damaged more than 50 percent. A nonconforming structure involuntarily damaged to more than 50 percent of its replacement cost (as defined in Subsection A.6.b, below) shall not be reconstructed, repaired, or restored, except in conformity with the applicable requirements of the subject zoning district and building codes, through the Planned Development Permit Process. A nonconforming sign involuntarily damaged to more than 50 percent of its replacement cost (as defined in Subsection A.6.b, below) shall not be reconstructed, repaired, or restored, except in conformity with the applicable requirements of the subject zoning district and building codes, through the Master Sign program process (see Section 9.38.030).

4. Ordinary repair and maintenance allowed. Ordinary and normal repair and maintenance work that may be required to keep a nonconforming structure in sound condition may occur in compliance with this Subparagraph, provided that no structural alterations or repairs shall be made, except those required by law or authorized under Subsection A.2., above. A nonconforming structure may undergo ordinary and normal repair and maintenance only as follows.

   a. Minor repair. A nonconforming structure may undergo minor normal repair and maintenance:

      (1) Provided that no structural alterations are made, and the work does not exceed 50 percent of the replacement cost of the structure during any calendar year;

      (2) For the purposes of this Subsection, the cost of any required foundation work shall not be counted within the 50 percent limitation.

5. Other allowed modifications. The addition, enlargement, extension, reconstruction, or structural alteration of a nonconforming structure may be allowed; provided, the modification is necessary to secure added safety or to reduce the fire hazard and/or to secure aesthetic advantages through the alignment, architecture, or closer conformity to surrounding allowed structures in the immediate neighborhood, and only in compliance with Subsection A.3, above.

6. Definitions.

   a. Restoration is initiated. As used in this Subsection, "restoration is initiated" requires that, at a minimum, a complete Building Permit application has been filed.

   b. Replacement cost.

      (1) As used in this Subsection, "replacement cost" is the construction cost to replace the entire structure immediately before the occurrence of the damage.

      (2) For purposes of administering the provisions of this Subsection, the applicant shall submit three estimates from licensed contractors for the damaged structure with the estimates averaged by the City's Building Official, which determination shall be final, unless appealed in compliance with Chapter 9.76 (Appeals).

9.90.040 - Nonconforming Parcels

A. Legal building site. A nonconforming parcel that does not comply with the applicable area or width requirements of this Land Use 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.

   1. Approved subdivision. The parcel was created by a recorded subdivision;

   2. Individual parcel legally created by deed. The parcel is under one ownership and of record, and was legally created by a recorded deed before the effective date of the zoning amendment that made the parcel nonconforming;

3. Variance or lot line adjustment. The parcel was approved through the Variance procedure or resulted from a lot line adjustment;

4. Partial government acquisition. The parcel was created in compliance with the provisions of this Land Use 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; or

5. Certificate of Compliance. A Certificate of Compliance has been issued, in compliance with Article 8 (Subdivision Regulations and Procedures), verifying that the parcel complies with the applicable provisions of Article 8 and the Subdivision Map Act.

B. Subdivision or lot line adjustment of a nonconforming parcel. No subdivision or lot line adjustment shall be approved that would increase the nonconformity of an existing parcel or any nonconforming use on the parcel.

9.90.050 - Exemptions

A. Historic structure. A nonconforming structure of historical significance may be altered or enlarged without increasing the degree of nonconformity with the approval of the Historic and Design Review Commission (HDRC). A nonconforming structure of historical significance may be altered or enlarged without conforming to current setback provisions with Planned Development Permit approval granted by the Planning Commission in compliance Section 9.72.070 with a recommendation from the HDRC; provided that the historic structure is:

1. Included in a historic district;

2. Designated as a historic landmark or noteworthy structure by the City Council;

3. Listed on the California Register or National Register; or

4. To be restored.

B. Structural Alteration. Where a single-family residence, or its detached accessory structures, is nonconforming only by reason of substandard setbacks, the provisions of this Section shall not apply; provided, any structural alteration of a nonconforming structure shall not increase the size or degree of the nonconformity.

C. Damaged or destroyed residential units.

1. Nonconforming single- and multi-family dwelling units that have been involuntarily damaged or destroyed by accident or natural occurrence, may be reconstructed or replaced with a new structure using the same development standards that applied to the damaged or destroyed structure (e.g., building footprint, building height, density standards, number of dwelling units, setbacks, and square footage); provided that:

a. The applicant provides documentation, satisfactory to the Director, supporting the claim that the damage or destruction occurred involuntarily;

b. No expansion of the gross floor area or number of dwelling units occurs;

c. The replacement structure:

(1) Is in compliance with the California Building Code; and

(2) Would not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the immediate vicinity of the replacement structure.

d. A Building Permit is issued no later than 12 months after the date of destruction, and construction is diligently pursued to completion.

2. If the preceding requirements are not met, the replacement structure shall comply with all of the regulations of the applicable zoning district in effect on the date of application for the required Building Permit.

D. Seismic retrofitting. Alterations, reconstruction, or repairs otherwise required by law (e.g., City adopted Building, Electrical, Plumbing Codes) shall be allowed. Reconstruction required to reinforce unreinforced masonry structures or to comply with California Building Code requirements shall be allowed without cost limitations; provided, the retrofitting and Code compliance are limited exclusively to compliance with earthquake safety standards and other applicable California Building Code requirements.

E. Nonconforming due to a lack of a Use Permit.

1. Previous Use Permits in effect. A use that was authorized by a Use Permit but is not allowed by this Land Use Code in its current location may continue, but only in compliance with the original Use Permit (e.g., if the original Use Permit specified a termination date, then the use shall terminate in compliance with the requirements of the Use Permit).

F. Previous permits. A use or structure that does not conform to the current regulations of the subject zoning district, but for which a Building Permit, or a permit or entitlement approved in compliance with this Land Use Code, was issued and exercised before the applicability of this Land Use Code, may be completed; provided, the work is diligently pursued to completion. Upon completion these uses or structures, or parts thereof, shall be deemed to be nonconforming and shall thereafter be subject to the provisions of this Chapter. For the purposes of this Subsection, the provisions of Section 9.72.070 (Permit Time Limits. Extensions, and Expiration) shall govern the determination of whether the permit or entitlement has been exercised in a timely manner.

G. Public utilities. The provisions of this Chapter, concerning the required removal of nonconforming uses and structures, and the reconstruction of nonconforming structures partially destroyed, shall not apply to public utility structures when the structures pertain directly to the rendering of the service of distribution of a utility (e.g., electric distribution and transmission substations, gas storage, metering, and valve control stations, steam electric generating stations, water wells and pumps, etc.); nor shall any provision of this Chapter be construed to prevent the expansion, modernization, or replacement of the public utility structures, equipment, and features, that are used directly for the delivery of or distribution of the service.

H. Public acquisition.

1. Nonconforming due to public acquisition. Whenever any structure or parcel is rendered nonconforming within the meaning of this Chapter by reason of a reduction in a required parcel area, reduction of off-street parking facilities, or setbacks occurring solely by reason of dedication to, or purchase by, the City for any public purpose, or eminent domain proceedings, which result in the acquisition by the City or any agency authorized for the eminent domain proceedings of a portion of the property, the same shall not be deemed nonconforming within the meaning of this Chapter.

9.90.060 - Unlawful Uses and Structures

Uses and structures which did not comply with the applicable provisions of this Land Use Code or prior planning and zoning regulations when established are violations of this Land Use Code and are subject to the provisions of Chapter 9.96 (Enforcement and Penalties). This Chapter does not grant any right to continue occupancy of property containing an illegal use or structure. The activity shall not be lawfully allowed to continue unless/until permits or entitlements required by this Land Use Code and the Municipal Code are first obtained.

9.90.070 - Nuisance Abatement

A. Not applicable to public nuisances. The provisions of this Chapter shall not apply to a use or a structure which is, or which becomes, a public nuisance.

B. Continuance of public nuisances prohibited. The provisions of this Chapter do not allow, and shall not be interpreted to allow, the continuation of a use or structure which is deemed a public nuisance or which is prohibited or otherwise made unlawful, in whole or in part, by the Municipal Code (including the Building Code, Fire Code, Land Use Code, etc.) or by laws enacted by the State or Federal government which are applicable to this City.

C. Enforcement actions. In the event that a nonconforming use or structure is found to constitute a public nuisance, appropriate action shall be taken by the City, in compliance with the Municipal Code and Chapter 9.96 (Enforcement and Penalties).

CHAPTER 9.92 -AMENDMENTS

Sections:

9.92.010 - Purpose of Chapter
9.92.020 - Processing, Notice, and Hearing
9.92.030 - Planning Commission Action on Amendment
9.92.040 - Council Action on Amendment
9.92.050 - Findings
9.92.060 - Prezoning
9.92.070 - Amendments to the Local Coastal Program

9.92.010 - Purpose of Chapter

This Chapter provides procedures for the amendment of the General Plan, the Zoning Map, this Land Use Code, and the Local Coastal Program whenever the Council determines public necessity and general welfare require an amendment.

9.92.020 - Processing, Notice, and Hearing

A. Who may initiate an amendment.

1. General Plan or Zoning Map. A General Plan or Zoning Map amendment may only be initiated by:

   a. The Council;

   b. The Planning Commission; or

   c. The filing of an amendment application with the Department by the owner or authorized agent of property for which the amendment 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.

2. Land Use Code. A Land Use Code amendment may only be initiated by:

   a. The Council;

   b. The Planning Commission; or

   c. By Council action to adopt an urgency measure as an interim ordinance in compliance with State law (Government Code Section 65858).

B. Application filing and processing. An application for an amendment shall be completed, filed, and processed in compliance with Chapter 9.70 (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for amendment applications. A General Plan amendment shall involve consultation with pertinent Tribal Governments per the requirements of Senate Bill 18 (SB18) of 2004.

C. Public hearings required. The Planning Commission and Council shall each conduct one or more public hearings regarding the amendment application.

D. Notice of hearings. Notice of the public hearings shall be provided, and the hearings shall be conducted in compliance with Chapter 9.74 (Public Hearings).

9.92.030 - Planning Commission Action on Amendment

The Planning 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 9.92.050 (Findings), below.

9.92.040 - Council Action on Amendment

A. Action to approve/disapprove. Upon receipt of the Planning Commission's recommendation, the Council shall approve, approve in modified form, or disapprove the proposed amendment based on the findings identified in Section 9.92.050 (Findings), below.

B. Referral to Planning Commission. If the Council proposes to adopt a substantial modification to the amendment not previously considered by the Planning Commission during its hearings, the proposed modification shall be first referred to the Planning Commission for its recommendation, in compliance with State law (Government Code Sections 65356 [General Plan amendments] and 65857 [Land Use Code /Zoning Map amendments]).

9.92.050 - Findings

An amendment to the General Plan, the Zoning Map, or this Land Use Code 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 proposed amendment is consistent with all other provisions of the General 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(s) is physically suitable (including absence of physical constraints, access, compatibility with adjoining land uses, and provision of utilities) for proposed or anticipated uses and/or development.

B. Findings for Zoning Map and Land Use Code text amendments.

1. Findings required for all Zoning Map and Land Use Code text amendments:

a. The proposed amendment is consistent with the General 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 Zoning Map amendments: The affected site(s) is physically suitable (including absence of physical constraints, access, compatibility with adjoining land uses, and provision of utilities) for the requested zoning designation and proposed or anticipated uses and/or development.

9.92.060 - Prezoning

A. Purpose.

1. An unincorporated property within the City's sphere of influence may be prezoned for the purpose of determining the zoning that would apply to the property in the event of subsequent annexation to the City.

2. The initiation and the procedures for the prezoning shall be the same procedures which govern the rezoning of property within the City and as identified in this Chapter.

3. Upon the effective date of annexation of property which has been prezoned in compliance with this Section, the zoning designation shall become the official zoning designation for the property and shall be so designated on the City's Official Zoning Map.

B. Applicability.

1. All lands. Except for those lands identified in Subsection B.2, immediately below, all lands shall be subject to the prezoning procedures identified in this Section and within Section 9.94.040.

2. Not subject to resource lands. Resource lands shall not be prezoned, but their specific land use designations shall be considered at the time of annexation.

C. Commission's action on prezoning. The Planning Commission shall make a written recommendation to the Council whether to approve, approve in modified form, or disapprove the proposed prezoning, based on the findings contained in 9.92.050 (Findings), above.

D. Council's action on prezoning.

1. Upon receipt of the Planning Commission's recommendation, the Council shall approve, approve in modified form, or disapprove the proposed prezoning based on the findings contained in 9.92.050 (Findings), above.

2. If the Council proposes to adopt a substantial modification to the prezoning not previously considered by the Planning Commission during its hearings, the proposed modification may be first referred back to the Planning Commission for its recommendation, in compliance with State law (Government Code Section 65857).

9.92.070 - Amendments to the Local Coastal Program

A. Procedure same as other amendments. The certified Local Coastal Program (LCP) or any portion (Land Use Plan or relevant provisions of these regulations) may be amended by the Council in compliance with the provisions of this Chapter for General Plan, Land Use Code, and Zoning Map amendments.

B. Certification by Coastal Commission required. An amendment to the LCP land use designations, or any Land Use Code provision applicable within the Coastal Zone shall not take effect until the amendment has been certified by the Coastal Commission in compliance with the Coastal Act.

C. Compliance with Coastal Act required. Amendments 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.

CHAPTER 9.94 -GROWTH MANAGEMENT

Sections:

9.94.010 - Purpose of Chapter
9.94.020 - Effect of Sphere of Influence
9.94.030 - Changes to Sphere of Influence
9.94.040 - Prezoning of Parcels Within Sphere of Influence
9.94.050 - Annexation Procedures
9.94.060 - Annexation Application Requirements
9.94.070 - Criteria for Annexation of Undeveloped Land
9.94.080 - Criteria for Annexation of Land With Existing Urban Development
9.94.090 - Urban Services Boundary
9.94.100 - Extension of Services Outside City Boundary
9.94.110 - Modification of Urban Services Boundary

9.94.010 - Purpose of Chapter

This Chapter provides criteria and procedures for growth management in the City.

9.94.020 - Effect of Sphere of Influence

A. Sphere of Influence defined. The Sphere of Influence adopted by the Local Agency Formation Commission (LAFCo) for the City, is shown on Figure GM-a of the General Plan.

B. City intent. It is the City's intent to maintain an adequate amount of land within the Sphere of Influence to accommodate future growth, consistent with the goals and policies of the General Plan, as well as to protect open space and productive resource uses.

C. Effect of Sphere of Influence. Only parcels that are included within the City's Sphere of Influence shall be eligible for annexation into the City.

9.94.030 - Changes to Sphere of Influence

A. Periodic evaluation. The City shall comprehensively evaluate the Sphere of Influence boundary at least every five years, but more frequently if appropriate.

B. Property owner requests.

1. Any owner of property within the unincorporated area of Humboldt County that is adjacent to the Sphere of Influence may request that the City include their property within the Sphere of Influence.

2. A proposal to change the Sphere of Influence shall identify the requested land use designations and any other necessary or appropriate amendments to the various elements of the General Plan/Local Coastal Plan.

C. Consideration by Planning Commission and Council. A proposed Sphere of Influence amendment shall first be considered by the Planning Commission, which shall provide a written recommendation to the Council, and then acted upon by the Council before any consideration by LAFCo and/or the Coastal Commission.

D. Criteria to be considered. A City decision to change the Sphere of Influence boundary shall be based on the following criteria:

1. The resulting area has an adequate supply of land to accommodate projected housing needs allocated by the Humboldt County Council of Governments.

2. In considering proposed changes, and at each periodic comprehensive evaluation, the Council, upon recommendation of the Planning Commisson, shall determine whether it would serve the public interest to designate additional lands for which to provide municipal services and developed with urban uses, or to protect open space or productive resource uses.

3. An amendment to the Sphere of Influence to include additional lands shall be subject to environmental review in compliance with the California Environmental Quality Act (CEQA) and Chapter 9.78 (Environmental Impact Assessment) and the California Coastal Act, if applicable.

4. A proposal to amend the Sphere of Influence may be considered concurrently with an annexation request.

5. An adjustment to the Sphere of Influence shall incorporate adequate provisions for open space.

9.94.040 - Prezoning of Parcels Within Sphere of Influence

A. Timing of prezoning. Land within the Sphere of Influence shall not be prezoned until the City considers a formal annexation request, and then only in compliance with Section 9.92.060 (Prezoning).

B. Consistency with General Plan. All prezonings shall be consistent with the land use designations of the City's General Plan for the Sphere of Influence, or a General Plan Amendment shall be required, in compliance with Chapter 9.92 (Amendments).

C. Purpose of procedure. The purpose of this procedure shall be to provide maximum latitude to the City to determine the appropriate timing of expansion of the City boundaries, extension of services, and urban development.

9.94.050 - Annexation Procedures

A. Purpose. The City's objective is to provide for the logical annexations of unincorporated lands within the City’s Sphere of Influence only when the existing or proposed development is consistent with community character, and City services can be adequately provided or to protect open spaces and resource uses.

B. Timing of application. The City shall consider prezoning/annexation requests before an annexation application is filed with LAFCo.

C. Procedures. If area property owners or residents request that the City initiate an annexation request to LAFCo, the following procedures shall apply:

1. Initiation.

a. Inhabited lands. If lands are inhabited, a petition needs to be signed by no less than 50 percent of the resident voters, or at least 25 percent of owners of property located within the annexation area;

b. Uninhabited lands. If lands are uninhabited but consist of more than one parcel and owner, a petition needs to be signed by a majority of owners representing more than 50 percent of the annexation area;

c. Single parcel. If a single parcel, a petition needs to be submitted by the owner(s).

2. Planning Commission consideration and recommendation. The Planning Commission shall review and make a written recommendation on the requested annexation to the Council.

3. Council's final action. Final action shall be taken by the Council in the form of a Resolution of Intention for the annexation.

4. Transmittal of annexation request. Following Council approval of an annexation request, including any accompanying General Plan amendment, pre-zoning ordinance, and/or environmental document, the City shall transmit the annexation request to LAFCo for its consideration and decision.

9.94.060 - Annexation Application Requirements

The following shall apply to where the land proposed to be annexed to the City is not developed with urban land uses before the annexation.

A. Annexation study. The City, or consultants under contract to the City, shall prepare a detailed annexation study, as follows.

1. Content of study. An annexation study shall include the following items.

a. A comprehensive and detailed analysis of the fiscal impacts of the annexation, addressing the full range of revenues and expenditures. One-time capital costs of facilities, as well as recurring operating costs and revenues, shall be evaluated.

b. A study and/or proposal for tax-sharing agreements with other taxing entities (e.g., the County).

c. An accompanying General Plan amendment, if requested or appropriate.

d. A proposed preliminary development plan, including phasing if appropriate.

e. An assessment of the City's capacity to provide facilities and services, including: fire protection; parks; police services; stormwater management; streets and circulation; wastewater collection and treatment; water supply and distribution; and other services as appropriate.

f. A prezoning ordinance.

g. The annexation study shall have a determination of consistency with the Arcata General Plan.

2. Cost for preparation of study. The costs of preparing the annexation study, including City administrative costs, shall be paid for by the applicant requesting the City to consider the annexation.

B. Environmental document. An appropriate environmental document shall be prepared in compliance with the California Environmental Quality Act (CEQA) and Chapter 9.78 (Environmental Impact Assessment).

C. Planned Development or specific plan may be required. A Planned Development, prepared and adopted in compliance with Section 9.72.070 (Planned Development Permit), or specific plan may be required prior to the annexation of any property larger than five acres and any vacant residential property of an acre or more.

9.94.070 - Criteria for Annexation of Undeveloped Land

Undeveloped land may be annexed to the City only if the proposed annexation will:

A. Only include parcels within the Urban Services Boundary identified in Section 9.94.090, and adjacent to existing urban development;

B. Not exceed the City's capacity to provide services and infrastructure to accommodate the proposed development;

C. Be timed so that the availability of services and infrastructure is concurrent with the anticipated need;

D. Have either a positive or neutral fiscal impact, or other overriding public benefits;

E. Comply with all applicable General Plan policies; and

F. Not include prime agriculture land (Storie Index of 60 or higher) other than with a designation and prezoning of Agriculture Exclusive (A-E), Natural Resource (NR), or Public Facility (P-F).

9.94.080 - Criteria for Annexation of Land With Existing Urban Development

Land with existing urban development may be annexed to the City only if the proposed annexation will:

A. Only include parcels within the Urban Services Boundary identified in Section 9.94.090, and adjacent to an existing City boundary;

B. Have facilities brought up to City standards before or concurrent with the annexation; and

C. Ensure that all costs for service extensions shall be paid for entirely by the owners of annexing properties and not by existing City taxpayers or ratepayers, or, have a financing mechanism in place before the annexation.

9.94.090 - Urban Services Boundary

A. City's intent. It is the City's intent to provide needed services to urban uses within the Urban Services Boundary when the provision of those services will not exceed the City's planned system capacities.

B. Boundary defined. The Urban Services Boundary serves to define the boundary that limits the extent of City services and urban uses, within the City's incorporated area and Sphere of Influence.

C. Rural residential development. Rural residential development within the City limits may be approved outside the Urban Services Boundary but only if the development would not require the extension of sewer, water, and other public facilities.

9.94.100 - Extension of Services Outside City Boundary

A. The City shall not extend sewer mains or new water mains, or provide new service connections to portions of its Planning Area outside of the City limits except under following conditions:

1. Emergency sanitary sewer connection. The City may provide an emergency sewer line extension provided the following conditions are met:

a. The property is located within the City Urban Services Boundary for water and sewer.

b. The property is adjacent to the City limits.

c. The on-site sewage disposal system has failed.

d. It is not feasible to replace or repair the on-site sewage disposal system as evidenced by a letter from the County of Humboldt Division of Environmental Health.

e. The on-site sewage disposal system failure is considered a health hazard by the County of Humboldt Division of Environmental Health.

f. The owner has submitted a complete application to the City of Arcata for annexation of the property within 18 months from the date that sanitary sewer service was provided.

g. LAFCo has approved the emergency sanitary sewer connection.

h. The sewer connection shall be sized to only accommodate the failed system.

2. Contracts to provide water and/or sewer services to other service districts. The City may contract to provide water and/or sewer services to other service districts subject to the following guidelines:

a. Only those areas with existing contracts as of December 31, 1998 shall be served.

b. No new contracts for services shall be approved.

c. No new connections shall be allowed to the sewer lines in the area located between the City limits and the Arcata Planning Area Boundary except in compliance with Subsection 1, above.

9.94.110 - Modification of Urban Services Boundary

The City may approve an Urban Services Boundary modification only after first finding all of the following:

A. There are existing legal urban uses or urban uses designated on the land use plan map for the area being considered.

B. There is sufficient existing or planned infrastructure capacity to extend police protection, sewer, water, and other services, without reducing service standards for other areas.

C. The area to be served is:

1. Adjacent to existing urban development; and

2. Within the City limits or Sphere of Influence.

D. City service extensions will not adversely impact open space and natural resources in the area.

CHAPTER 9.96 -ENFORCEMENT AND PENALTIES

Sections:

9.96.010 - Purpose of Chapter
9.96.020 - Permits and Licenses
9.96.030 - Official Duty to Enforce
9.96.040 - Violations
9.96.050 - Remedies are Cumulative
9.96.060 - Inspections
9.96.070 - Permit Revocation or Modification
9.96.080 - Initial Enforcement Action
9.96.090 - Legal Remedies
9.96.100 - Recovery of Costs
9.96.110 - Additional Permit Processing Fees
9.96.120 - Reinspection Fees

9.96.010 - Purpose of Chapter

This Chapter establishes procedures for City responses to violations of this Land Use Code/Arcata General Plan 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.

9.96.020 - Permits and Licenses

Each department, official, and employee of the City who is assigned the authority or duty to issue permits or licenses shall comply with all applicable provisions of this Land Use Code/Arcata General Plan.

A. Permits in conflict with Land Use Code. No permit shall be issued by the City for a use or structure in conflict with the provisions of this Land Use Code/Arcata General Plan.

B. Permits deemed void. Any permit issued in conflict with the provisions of this Land Use Code/Arcata General Plan shall be deemed void.

9.96.030 - Official Duty to Enforce

A. Designated employee. The Zoning Administrator may:

1. Exercise the authority provided in Section 836.5 of the Penal Code as a Code Enforcement Officer; and

2. Issue citations for any violations of this Land Use Code/Arcata General Plan pertaining to the use of any land and the addition, alteration, construction, conversion, erection, moving, reconstruction, or use of any structure.

B. Police Chief. The Police Chief shall render any and all necessary assistance to the Zoning Administrator for the enforcement of this Land Use Code.

9.96.040 - Violations

Any structure constructed or maintained contrary to the provisions of this Land Use Code and any use of land or structures operated or maintained contrary to the provisions of this Land Use Code are hereby declared to be public nuisances.

A. Public nuisance. Any structure or use which is altered, constructed, converted, enlarged, established, erected, maintained, moved, or operated, contrary to the provisions of this Land Use 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 identified in this Chapter and Title 1, Chapter 3 (Penalty Provisions) of the Municipal Code.

B. Criminal violations. Any person, whether an agent, principal, or otherwise, violating or causing the violation of any provision of this Land Use Code or any permit issued in compliance with this Land Use 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 the Council.

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 Land Use 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 Land Use Code within the 24 months immediately preceding the offense.

D. Stop Work Order.

1. Any construction in violation of this Land Use 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, subject to the penalties described in Title 1, Chapter 3 (Penalty Provisions) of the Municipal Code.

9.96.050 - Remedies are Cumulative

A. Cumulative, not exclusive. All remedies contained in this Land Use Code for the handling of violations or enforcement of the provisions of this Land Use 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 Land Use Code, the conviction shall not prevent the City from pursuing any other available remedy to correct the violations.

9.96.060 - Inspections

A. Preapproval inspections. Every applicant seeking a permit or any other action in compliance with this Land Use Code shall allow the City officials handling the application access to any premises or property which is the subject of the application. An owner's signature on a City Application Form authorizes City of Arcata representatives to enter upon a subject property as reasonably necessary to evaluate a proposed project.

B. Post approval inspections. If the permit or other action in compliance with this Land Use 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.

9.96.070 - Permit Revocation or Modification

A. Procedures. This Section provides procedures for securing punitive revocation or modification of previously granted permits or approvals.

B. Revocations. The City's action to revoke a permit or approval shall have the effect of terminating the permit or approval and denying the privileges granted by the original approval.

C. Modifications.

1. The City's action to modify, rather than revoke, a permit or approval, shall have the effect of changing the operational aspects of the permit or approval.

2. The changes may include the operational aspects related to the duration of the permit or approval, fencing, hours of operation, landscaping and maintenance, lighting, noise, parking, performance guarantees, property maintenance, screening, signs, surfacing, traffic circulation, etc.

D. Hearings and notice.

1. The appropriate review authority that originally approved the permit, shall hold a public hearing to revoke or modify a permit or approval granted in compliance with the provisions of this Land Use Code.

2. At least 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.

3. Notice shall be delivered by either personal delivery or through certified first class mail, 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.

E. Review authority action.

1. Permits. A land use permit or approval may be revoked or modified by the review authority (e.g., Zoning Administrator, Historic and Design Review Authority, Planning 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 other approval;

   c. One or more of the conditions of the original 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 public nuisance.

2. Variances. A Variance may be revoked or modified by the review authority which originally approved the Variance, if the review authority first makes either one of the following findings:

   a. Circumstances under which the entitlement 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

   b. One or more of the conditions of the Variance have not been met, or have been violated, and the grantee has not substantially exercised the rights granted by the Variance.

9.96.080 - Initial Enforcement Action

This Section describes the procedures for initiating enforcement action in cases where the Zoning Administrator has determined that real property within the City is being used, maintained, or allowed to exist in violation of the provisions of this Land Use 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 Zoning Administrator 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 as delivered per Subsection 9.96.070.D.3, which shall include the following information:

1. A description of the violation, and citations of applicable Land Use 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 9.96.100 (Recovery of Costs), and/or initiate legal action as described in Section 9.96.090 (Legal Remedies);

4. A statement that the property owner may request and be provided a meeting with the Zoning Administrator 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 30 days from the date of the notice to avoid further enforcement action by the City, unless the responsible party contacts the Zoning Administrator within that time to arrange for a longer period for correction.

2. The 30-day time limit may be extended by the Zoning Administrator upon a showing of good cause.

3. The Zoning Administrator may also require through the Notice of Violation that the correction occur within less than 30 days if the Zoning Administrator determines that the violation constitutes a hazard to public health or safety.

C. Use of other enforcement procedures. The enforcement procedures of Section 9.96.090 (Legal Remedies) may be employed by the Zoning Administrator after or instead of the provisions of this Section where the Zoning Administrator determines that this Section would be ineffective in securing the correction of the violations within a reasonable time.

9.96.090 - Legal Remedies

The City may choose to undertake any one or all of the following legal actions to correct and/or abate any public nuisances or violations of this Land Use 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 Land Use Code.

2. Abatement proceedings. Where any person fails to abate a violation after being provided a Notice of Violation in compliance with Section 9.96.080.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 nuisance abatement in compliance with Section Title I, Chapter 3 (Penalty Provisions) of the Municipal Code.

B. Civil remedies and penalties.

1. Civil penalties. Any person who willfully violates the provisions of this Land Use Code or any permit issued in compliance with this Land Use Code, shall be liable for a civil penalty in compliance with the Code Enforcement Fee Schedule for each day that the violation continues to exist.

2. Costs and damages. Any person violating any provisions of this Land Use Code or any permit issued in compliance with this Land Use 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 violations.

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 9.96.040.B (Criminal Violations).

9.96.100 - 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 Land Use 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 Land Use Code, and shall recover the costs from the property owner in compliance with this Section and Title V, Chapter 5 (Abatement of Nuisances) of the Municipal Code.

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 Land Use Code is found to exist, the Zoning Administrator shall notify the record owner or any person having possession or control of the property by mail as delivered per Subsection 9.96.070.D.3, of the existence of the violation, 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 Zoning Administrator shall send a summary of costs associated with enforcement to the owner and/or person having possession or control of the property by certified 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 Zoning Administrator 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 Zoning Administrator.

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. 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 Zoning Administrator 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 Zoning Administrator shall hold a hearing on the owner's objections, and determine their validity.

3. In determining the validity of the costs, the Zoning Administrator shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered include: whether the present owner created the violation; whether there is a present ability to correct the violation; whether the owner moved promptly to correct the violation; the degree of cooperation provided by the owner; and whether reasonable minds can differ as to whether a violation exists.

4. The Zoning Administrator's decision is appealable to the Council as provided by Chapter 9.76 (Appeals).

9.96.110 - Additional Permit Processing Fees

Any person who establishes a land use, or alters, constructs, enlarges, erects, maintains, or moves any structure without first obtaining any permit required by this Land Use 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.

9.96.120 - 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 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 Land Use 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 Land Use 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 Land Use Code or the Municipal Code, or costs incurred by the City for the abatement of a public nuisance.

ARTICLE 10

Glossary

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CHAPTER 9.100 -DEFINITIONS

Sections:

9.100.010 - Purpose
9.100.020 - Definitions of Specialized Terms and Phrases

9.100.010 - Purpose

This Chapter provides definitions of terms and phrases used in this Land Use 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 Code. If a word is not defined in this Chapter, or in other provisions of the City of Arcata Municipal Code, the Director shall determine the correct definition.

9.100.020 - Definitions of Specialized Terms and Phrases

As used in this Land Use 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 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 attached or detached from, secondary and incidental as measured by mass, size or location to, and commonly associated with a primary structure on the same site. See also "Agricultural Accessory Structure," “Garage” 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.

Acres, Gross. The entire acreage of a site. Gross acreage is calculated to the centerline of proposed bounding streets and to the edge of the right-of-way of existing or dedicated streets.

Acres, Net. The portion of a site that can actually be built upon. The following generally are not included in the net acreage of a site: public or private road rights-of-way, public open space, and flood ways.

Adaptive Use/Reuse. See “Historical Resource Preservation.”

Adequate Solar Access. See “Solar Access.”

Adult day care facility. See "Day Care."

Affordable and Inclusionary Housing. The following terms and phrases are defined for the purposes of Chapter 9.31 and 9.32:

1. Affordable Sales Price (Single Family Residential Projects). "Affordable" means average monthly housing payments, including mortgage loan principal and interest, any associated loan insurance fees, property taxes and assessments, homeowners insurance, land rent (if the home is on rented or ground lease land) and homeowners association dues, if any, which during the first (1st) calendar year of a household's occupancy, are equal to or less than: (i) for Very Low Income Inclusionary Units, one-twelfth (1/12th) of forty-two percent (42%) of fifty percent (50%) of Median Income, adjusted by household size based on the number of bedrooms in the unit; (ii) for Low Income Inclusionary Units, one-twelfth (1/12th) of forty-two percent (42%) of seventy-two percent (72%) of Median Income, adjusted for household size based on the number of bedrooms in the unit; and (iii) for Moderate Income Inclusionary Units, one-twelfth (1/12th) of forty-two percent (42%) of one hundred ten percent (110%) of Median Income, adjusted for household size based on the number of bedrooms in the unit. Adjustments for household sized based on the number of bedrooms in the unit and amounts utilized for utility allowances and other monthly housing cost factors, including assumed mortgage interest rates, loan insurance fees, maintenance and repair allowances, homeowners' insurance, property tax and assessment costs, and homeowners association dues, shall be as provided by the City's First Time Homebuyer Guidelines.

2. Affordable Rent (Multi-Family Residential Projects). "Affordable" means rents calculated annually by the United States Department of Housing and Urban Development ("HUD") and are:

   a. The lesser of the Fair Market Rents or a rent that does not exceed thirty percent (30%) of sixty percent (60%) of the area median income ("Low Income Rents"); or

   b. Thirty percent (30%) of fifty percent (50%) of the area median income ("Very -Low Rents").

   c. Other rent levels that may be established by the City Council for a specific project or program.

3. Affordable Unit. A dwelling unit that is required to be rented at affordable rents or purchased at an affordable sales price to specified households.

4. 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, or other income limits that may be required by a public funding agency.

5. Assisted Housing. Generally multi-family rental housing, but sometimes single-family ownership units, whose construction, financing, sales prices, or rents have been subsidized by federal, state, or local housing programs including, but not limited to Federal '8 (new construction, substantial rehabilitation, and loan management set-asides), Federal 's 213, 236, and 202, Federal '221(d)(3) (below-market interest rate program), Federal '101 (rent supplement assistance), CDBG, FmHA'515, multi-family mortgage revenue bond programs, local redevelopment and in lieu fee programs, and units developed pursuant to local inclusionary housing and density bonus programs.

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 Government Code Section 65915 et seq., an increase over the maximum density otherwise allowed by the applicable zoning district, that is granted to the owner/developer of a housing project who agrees to construct a senior housing project or a prescribed percentage of dwelling units that are affordable to households of very low; low; and/or moderate 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. External Subsidy. Any source of funds that is not local public funding, including Federal or state grants, loans, bond funds, tax credits or other tax-based subsidy.

9. First-Time Home Buyer. A home buyer who has not (nor has his/her spouse) owned a home during the past three years, or that the purchaser meets at least one of the following criteria:

   a. The purchaser is a displaced homemaker as defined as an individual who is an adult; has not worked full time, full year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and is unemployed or underemployed and experiencing difficulty in obtaining or upgrading employment.

   b. The purchaser is a single parent as defined as an individual who is unmarried or legally separated from a spouse; and has one or more minor children for whom the individual has custody or joint custody; or is pregnant, may not be excluded from consideration as a first time homebuyer on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

   c. The purchaser owns or owned as a principal residence during the past three years, a dwelling unit which structure is not permanently affixed to a permanent foundation in accordance with the City Code, or is not and cannot be brought into compliance with City Code for less than the cost of replacing the structure.

10. Housing Trust Fund. The fund created by the City as per Implementation Measure HE-27 of the City's Housing Element to retain funds collected in a segregated account specifically to assist with the development of affordable housing.

11. Affordable Housing Regulatory Agreement, or Agreement. The agreement described in Section 9.32.110 between a developer and the City setting forth the manner in which required inclusionary units will be provided in a proposed residential project.

12. Inclusionary Housing Plan. The plan described in Section 9.32.110 setting forth the manner in which required inclusionary units will be implemented in a residential project.

13. Inclusionary Incentives. Fee waivers or reductions, planning and building standards waivers or reductions, regulatory incentives or concessions, and local public funding provided by the City or to a residential project to assist in the provision of inclusionary units.

14. Inclusionary Unit. An ownership or rental dwelling unit developed as a part of a residential project in compliance with this Chapter.

15. Initial Owner. The first person or persons to purchase a new for-sale inclusionary unit for his, her or their primary residence.

16. Legislative Entitlement. Includes General Plan and Land Use Code designations and re-designations, zonings and rezoning, planned unit developments ("PUD"); conditional use permits, variances; and amendments thereto.

17. Low Income Household. A household with an annual income usually no greater than 80 percent of the area median family income adjusted by household size, as determined by a survey of incomes conducted by a city or a county, or in the absence of such a survey, based on the latest available eligibility limits established by the U.S. Department of Housing and Urban Development (HUD) for the Section 8 housing program.

18. Low-Income Housing Tax Credits. Tax reductions provided by the federal and State governments for investors in housing for low-income households.

19. Market Rate. Not restricted to an affordable housing price or affordable rent.

20. Maximum Allowable Residential Density. The density allowed under the zoning ordinance, or if a range of density is permitted, the maximum allowable density for the specific zoning range applicable to the project.

21. Moderate Income Household. A household with an annual income usually no greater than 120 percent of the area median family income adjusted by household size, as determined by a survey of incomes conducted by a city or a county, or in the absence of such a survey, based on the latest available eligibility limits established by the U.S. Department of Housing and Urban Development (HUD) for the Section 8 housing program.

22. Off-Site. Outside of the boundaries of a residential project.

23. Owner. The person, persons, partnership, joint venture, association, corporation, or public or private entity having sufficient proprietary interest in real property to commence, maintain, and operate a residential project.

24. Subsidize. To assist by payment of a sum of money or by the granting of terms or favors that reduces the need for monetary expenditures. Housing subsidies may take the forms of mortgage interest deductions or tax credits from federal and/or state income taxes, sale or lease at less than market value of land to be used for the construction of housing, payments to supplement a minimum affordable rent, and the like.

25. Substantial Rehabilitation. The repair, preservation, and/or the improvement of a housing unit where the cost as determined by the Building Official exceeds 50% of the after rehabilitation assessed value of the structure.

26. Very Low Income Household. A household with an annual income usually no greater than 50 percent of the area median family income adjusted by household size, as determined by a survey of incomes conducted by a city or a county, or in the absence of such a survey, based on the latest available eligibility limits established by the U.S. Department of Housing and Urban Development (HUD) for the Section 8 housing program.

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 Code.

Agricultural Accessory Structure. A structure for sheltering animals, or agricultural equipment, hay, feed, etc. Examples of these structures include barns, non-commercial greenhouses and coops. 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, corrals or pens which requires no City approval when in compliance with Section 9.30.030 (Fences, Walls, and Screening).

Agricultural Land. All that real property within the boundaries of the City of Arcata currently used for the production of food, fiber, or livestock or lands upon which agricultural uses may in the future be established.

Agricultural Preserve. Land designated for agriculture or conservation under the "Williamson Act."

Agricultural Processing - Moderate Impact.

- Creameries and dairy products manufacturing
- Dry – lot livestock operation
- Retail sales as an accessory use to a moderate impact agricultural processing
- Low and Moderate Impact processing in covered facilities over 4,000 square feet

Agricultural Processing - Low Impact. The processing of food, beverages, and harvested crops to prepare them for on-site marketing, off-site sales, or processing and packaging elsewhere. Examples of this land use activity include the following:

- Fats and oil product manufacturing
- Fruit and vegetable canning, preserving and related processing
- Grain mill products and by-product processing
- Meat, poultry, fish and seafood canning, curing and by-products manufacturing
- Miscellaneous food and beverage preparation from raw products.
- Retail sales as an accessory use to low impact agricultural processing

Does not include wineries, which are separately defined.

Agricultural Processing - Very Low Impact. The producing and processing of food, beverages, and harvested crops for on-site use, on-site marketing, or processing and packaging elsewhere. Examples of this land use activity include the following:

- Corn shelling
- Custom grist mills
- Dairies (excluding dry-lot livestock operations)
- Drying and storage of corn, rice, hay, fruits and vegetables
- Grain cleaning and custom grinding
- Flower and bulb sorting and packaging
- Hay baling and cubing
- Pre-cooling, storage, and packaging of fresh or farm-dried fruits and vegetables
- Silage production
- Sorting, grading and packaging of fruits and vegetables
- Tree nut hulling and shelling

Agricultural Uses. The cultivation and tillage of the soil; dairying; the production, irrigation, frost protection, cultivation, growing, harvesting and processing of any agricultural commodity, including viticulture, horticulture, timber or apiculture; the raising of livestock, fur bearing livestock, fish or poultry; and any commercial agricultural practices performed as incidental to or in conjunction with such operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

Agriculture. Use of land for the production of food and fiber, including the growing of crops and/or the grazing of animals on natural prime or improved pasture land.

Alcoholic Beverage Sales. The retail sale of beer, wine, and/or distilled spirits for on-premise or off-premise consumption.

Alquist-Priolo Act, Earthquake Fault Zone. A state designated seismic hazard zone along traces of potentially and recently active faults, in which specialized geologic investigations must be prepared prior to approval of certain types of new development.

Alley. A public or private roadway that is not intended for general traffic circulation providing vehicle access to the rear or side of parcels having other public street frontage.

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 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.

Alteration of a Historic Resource. See “Historical Resource Preservation.”

Ambient. Surrounding on all sides; used to describe measurements of existing conditions with respect to traffic, noise, air and other environments.

Ambulance, Taxi, or Limousine Dispatch Facility. A base facility from which taxis and limousines are dispatched, and/or where ambulance vehicles and crews stand by for emergency calls.

Animal Keeping. See Section 9.42.050 (Animal Keeping).

Annex. To incorporate a land area into an existing district or municipality, with a resulting change in the boundaries of the annexing jurisdiction.

Annual Household Income. See “Affordable and Inclusionary Housing.”

Apartment. See "Multi-Family Housing."

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 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.

Aquaculture. The raising and harvesting of aquatic organisms, including shellfish, mollusks, crustaceans, kelp, and algae, in close proximity to the ocean, and dependent on ocean water.

Aquifer. An underground, water-bearing layer of earth, porous rock, sand, or gravel, through which water can seep or be held in natural storage. Aquifers generally hold sufficient water to be used as a water supply.

Arable. Land capable of being cultivated for farming.

Arborist. See "Trees."

Archeological Site. See "Historical Resource Preservation."

Architectural Feature. An exterior building feature including roof, windows, doors, porches, etc.

Area of Shallow Flooding. See "Flood Hazard Management."

Arterial. Medium-speed (30-40 mph), medium-capacity (10,000-35,000 average daily trips) roadway that provides intra-community travel and access to the county-wide highway system. Access to community arterials should be provided at collector roads and local streets, but direct access from parcels to existing arterials is common.

Artificial Wetlands. See "Environmentally Sensitive Habitat Area (ESHA)".

Artisan Shop. A retail store selling art glass, ceramics, jewelry, paintings, sculpture, and other handcrafted items, where the facility 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.

Assessment District. (See "Benefit Assessment District.")

Assisted Housing. See "Affordable and Inclusionary Housing."

Assisted Living Facility. See "Residential Care Facility for the Elderly (RCFE)."

Attainment. Compliance with State and federal ambient air quality standards within an air basin. (See "Non-attainment.")

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"). 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.

Average Low Flow Line. See “Environmentally Sensitive Habitat Area (ESHA)”.

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."

Banner, Flag, or Pennant. See “Sign.”

Bar/Tavern/Pub. 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 also include beer brewing as part of a microbrewery ("brew-pub"), and other beverage tasting facilities. Does not include sex oriented businesses.

Base Flood. See “Flood Hazard Management.”

Basement. See “Flood Hazard Management.”

Base Zone. The primary, underlying zone district.

Bed and Breakfast Inn (B&B). See “Lodging.”

Bench. See "Grading."

Benefit Assessment District. A geographic area in which there is an annual assessment on real property to provide benefits for the area. The assessment is used to pay the costs of providing specific park capital improvements, fire, flood, water, sewer and other community services.

Benefited Property. See "Solar Access."

Bicycle Lane (Class II facility). A corridor expressly reserved for bicycles, existing on a street or roadway in addition to any lanes for use by motorized vehicles.

Bicycle Path (Class I facility). A paved route not on a street or roadway and expressly reserved for bicycles traversing an otherwise unpaved area. Bicycle paths may parallel roads but typically are separated from them by landscaping.

Bicycle Route (Class III facility). A facility shared with motorists and identified only by signs, a bicycle route has no pavement markings or lane stripes.

Bikeways. A term that encompasses bicycle lanes, bicycle paths, and bicycle routes.

Biodiversity. The variety of organisms considered at all levels, from genetic variants belonging to the same species, through arrays of species to arrays of genera, families, and still higher taxonomic levels; includes the variety of ecosystems, which comprise both the communities of organisms within particular habitats and the physical conditions under which they live.

BMP. See "Grading."

Boat Launching Facility. An area with facilities and equipment for the placement of boats in the ocean. May include launching ramps, hoists, piers, and onshore parking areas for boat trailers and other vehicles.

Bond. An interest-bearing promise to pay a stipulated sum of money, with the principal amount due on a specific date. Funds raised through the sale of bonds can be used for various public purposes.

Breakaway Wall. See "Flood Hazard Management."

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".

Brownfield. An area with abandoned, idle, or under-used industrial and commercial facilities where expansion, redevelopment, or reuse is complicated by real or perceived environmental contamination. (See "Greenfield.")

Buffer Zone. An area of land separating two distinct land uses that acts to soften or mitigate the effects of one land use on the other.

Buildable Area. The portion of a site that can actually be built upon and which is outside of identified site constraints that are specified within this Land Use Code.

Building. See “Structure”.

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, and 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 Height. See Section 9.30.040 (Height Limits and Exceptions).

Building Official. The City of Arcata Building Official, or designee of the Building Official.

Buildout; Build-out. Development of land to its full potential or theoretical capacity as permitted under current or proposed planning or zoning designations. (See “Carrying Capacity (3).”)

Burdened Property. See “Solar Access.”

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
- film processing and photofinishing (retail)
- outdoor advertising services
- mailing and mail box services
- protective services (other than office related)
- security systems services

Busway. A vehicular right-of-way or portion thereof-often an exclusive lane-reserved exclusively for buses.

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.

Caltrans. California Department of Transportation.

Campground. See "Lodging."

Capital Improvements Program (CIP). A program established by a city or county government and reviewed by its planning commission, which schedules permanent improvements, usually for a minimum of five years in the future, to fit the projected fiscal capability of the local jurisdiction. The program generally is reviewed annually, for conformance to and consistency with the general plan.

Card Room. An establishment offering legal gambling activities in compliance with a State license.

Caretaker/Employee Unit. 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.

Carport. See “Garage, or Carport.”

Carriage House. A secondary residential unit located over a detached garage.

Carrying Capacity. Used in determining the potential of an area to absorb development: (1) The level of land use, human activity, or development for a specific area that can be accommodated permanently without an irreversible change in the quality of air, water, land, or plant and animal habitats. (2) The upper limits of development beyond which the quality of human life, health, welfare, safety, or community character within an area will be impaired. (3) The maximum level of development allowable under current zoning. (See “Buildout.”)

Catering Service. A business that prepares food for consumption on the premises of a client.

Cemetery, Mausoleum, Columbarium. An interment establishment engaged in subdividing property into cemetery lots and offering burial plots or air space for sale. Includes animal cemeteries; cemetery, mausoleum, crematorium and columbarium operations, and full-service mortuaries and funeral parlors accessory to a cemetery or columbarium.

Central Business District (CBD). The major commercial downtown center of a community. General guidelines for delineating a downtown area are defined by the U.S. Census of Retail Trade, with specific boundaries being set by the local municipality.

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.

Channel or Drainage Way. See “Grading.”

Channelization. (1) The straightening and/or deepening of a watercourse for purposes of storm-runoff control or ease of navigation. Channelization often includes lining of stream banks with a retaining material such as concrete. (2) At the intersection of roadways, the directional separation of traffic lanes through the use of curbs or raised islands that limit the paths that vehicles may take through the intersection.

Child Day Care Center. See "Day Care."

City. The City of Arcata, State of California, referred to in this Land Use Code as the "City."

City Council. The Arcata City Council, referred to in this Land Use Code as the "Council."

Club, Lodge, Private Meeting Hall. Permanent, headquarters-type and meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, including facilities for:

- business associations
- civic, social and fraternal organizations
- labor unions and similar organizations
- political organizations
- professional membership organizations
- other membership organizations

Includes grange halls and similar facilities.

Clustered Development. Development in which a number of dwelling units are placed in closer proximity than usual, or are attached, with the purpose of retaining an open space area.

Coastal Access Trail. A public walkway providing pedestrian access to, or along the ocean coastline (vertical, or lateral access, respectively.

Coastal Creek Zone. See "Environmentally Sensitive Habitat Area (ESHA)".

Coastal High Hazard Area. See "Flood Hazard Management."

Collection Facility. See "Recycling Facility."

Collector. Relatively-low-speed (25-30 mph), relatively-low-volume (5,000-20,000 average daily trips) street that provides circulation within and between neighborhoods. Collectors usually serve short trips and are intended for collecting trips from local streets and distributing them to the arterial network.

Commercial. A land use classification that permits facilities for buying and selling of commodities and services.

Commercial Recreation Facility - Indoor. Establishments providing indoor amusement and entertainment services for a fee or admission charge, including:

- bowling alleys
- 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 sex 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.

Commercial Strip. Commercial development, usually one store deep, that fronts on a major street for a distance of one city block or more. Includes individual buildings on their own lots, with or without on-site parking, and small linear shopping centers with shallow on-site parking in front of the stores.

Commercial Zoning District. Any of the commercial zoning districts established by Section 9.12.020 (Zoning Map and Zoning Districts).

Community Apartment Project. A development in which an undivided interest in land is coupled with the right of exclusive occupancy of any apartment located thereon.

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 Child Care Agency. A non-profit agency established to organize community resources for the development and improvement of child care services.

Community Development Block Grant (CDBG). A grant program administered by the U.S. Department of Housing and Urban Development (HUD) on a formula basis for entitlement communities, and by the State Department of Housing and Community Development (HCD) for non-entitled jurisdictions such as Arcata. This grant allots money for housing rehabilitation and community development, including public facilities and economic development.

Community Noise Equivalent Level (CNEL). A 24-hour energy equivalent level derived from a variety of single-noise events, with weighting factors of 5 and 10 dBA applied to the evening (7 PM to 10 PM) and nighttime (10 PM to 7 AM) periods, respectively, to allow for the greater sensitivity to noise during these hours.

Community Park. Land with full public access intended to provide recreation opportunities beyond those supplied by neighborhood parks. Community parks are larger in scale than neighborhood parks but smaller than regional parks.

Community Redevelopment Agency (CRA). A local agency created under California Redevelopment Law (Health & Safety code '33000, et. Seq.), or a local legislative body that has been elected to exercise the powers granted to such an agency, for the purpose of planning, developing, re-planning, redesigning, clearing, reconstructing, and/or rehabilitating all or part of a specified area with residential, commercial, industrial, and/or public (including recreational) structures and facilities. The redevelopment agency's plans must be compatible with adopted community general plans.

Community Service District (CSD). A geographic subarea of a city or county used for the planning and delivery of parks, recreation, and other human services based on an assessment of the service needs of the population in that subarea. The CSD is a taxation district with independent administration.

Composting. Storage and processing of vegetative materials that relies on natural decay processes to produce soil amendment and nutritive materials.

Condominium. As defined by Civil Code Section 915, 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.).

Congestion Management Plan (CMP). A mechanism employing growth management techniques, including traffic level of service requirements, standards for public transit, trip reduction programs involving transportation systems management and jobs/ housing balance strategies, and capital improvement programming, for the purpose of controlling and/or reducing the cumulative regional traffic impacts of development.

Congregate Care. Apartment housing, usually for seniors, in a group setting that includes independent living and sleeping accommodations in conjunction with shared dining and recreational facilities.

Conservation Easement. See "Historical Resource Preservation" for "Historic Conservation Easement", and see "Easement, Conservation."

Consistency, Consistent With. Free from significant variation or contradiction. The various diagrams, text, goals, policies, and programs in the general plan must be consistent with each other, not contradictory or preferential. The term "consistent with" is used interchangeably with "conformity with." The courts have held that the phrase "consistent with" means "agreement with; harmonious with." Webster defines "conformity with" as meaning harmony, agreement when used with "with." The term "conformity" means in harmony therewith or agreeable to (Sec 58 Ops.Cal.Atty.Gen. 21, 25 [1975]). California State law also requires that a general plan be internally consistent and also requires consistency between a general plan and implementation measures such as the zoning ordinance. As a general rule, an action program or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.

Construction Contractors. 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.

Construction Costs. See "Affordable and Inclusionary Housing."

Construction/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.

Construction Site. The area where new construction, or reconstructing, remodeling, or restoring of an existing structure or site is occurring. This includes the development site and onsite area used by the contractor. This does not include ongoing operations such as permitted industrial activities.

Convenience Store. A retail store of 3,500 square feet or less in gross floor area, which carries a range of merchandise oriented to the convenience shopping needs of nearby residents.

County. The County of Humboldt, State of California.

Covenants, Conditions, and Restrictions (CC&Rs). A term used to describe restrictive limitations that may be placed on property and its use, and which usually are made a condition of holding title or lease.

Creek Zone. See “Environmentally Sensitive Habitat Area (ESHA)”.

Critical Facility. Facilities housing or serving many people, that are necessary in the event of an earthquake or flood, such as hospitals, fire, police, and emergency service facilities, utility “lifeline” facilities, such as water, electricity, and gas supply, sewage disposal, and communications and transportation facilities.

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
- flowers and seeds
- fruits
- grains
- melons
- hay
- ornamental crops
- tree nuts
- trees and sod
- vegetables
- wine and table grapes
- community gardens

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 or "Residential Accessory Use or Structure”, which are separately defined.

Cul-de-sac. A short street or alley with only a single means of ingress and egress at one end and with a large turnaround at its other end.

Cumulative Impact. As used in CEQA, the total impact resulting from the accumulated impacts of individual projects or programs over time.

D. Definitions, "D."

Day Care. Facilities that provide non-medical care and supervision of individuals 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. Child 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. Large Family Day Care Home. As provided by Health and Safety Code Section 1596.78, a home that regularly provides care, protection, and supervision for seven to 14 children, inclusive, including children under the age of 10 years who reside in the home, for periods of less than 24 hours per day, while the parents or guardians are away.

3. Small Family Day Care Home. As provided by Health and Safety Code Section 1596.78, a home that provides family day care for eight or fewer children, including children under the age of 10 years who reside in the home.

4. Adult Day Care Facility. A day care facility providing care and supervision for adult clients.

Dedication. The turning over by an owner or developer of private land for public use, and the acceptance of land for such use by the governmental agency having jurisdiction over the public function for which it will be used. Dedications for roads, parks, school sites, or other public uses often are made conditions for approval of a development by a city or county.

Dedication, In Lieu Of. Cash payments that may be required of an owner or developer as a substitute for a dedication of land, usually calculated in dollars per lot, and referred to as in lieu fees or in lieu contributions.

Defensible Space. (1) In fire-fighting and prevention, a 30-foot area of non-combustible surfaces separating urban and wildland areas. (2) In urban areas, open spaces, entry points, and pathways configured to provide maximum opportunities to rightful users and/or residents to defend themselves against intruders and criminal activity.

Demolition. See “Historical Resource Preservation.”

Density, Residential. The number of permanent residential dwelling units per gross acre of land. The residential component of a mixed use project shall comply with the density requirements of the Residential-Medium Density Zone district standards.

Density Bonus. See “Affordable and Inclusionary Housing.”

Department. The City of Arcata Community Development Department, referred to in this Land Use Code as the "Department."

Design Review; Design Control. The comprehensive evaluation of a development and its impact on neighboring properties and the community as a whole, from the standpoint of site and landscape design, architecture, materials, colors, lighting, and signs, in accordance with a set of adopted criteria and standards.

Detention Dam/Basin/Pond. Dams may be classified according to the broad function they serve, such as storage, diversion, or detention. Detention dams are constructed to retard flood runoff and minimize the effect of sudden floods. Detention dams fall into two main types. In one type, the water is temporarily stored, and released through an outlet structure at a rate that will not exceed the carrying capacity of the channel downstream. Often, the basins are planted with grass and used for open space or recreation in periods of dry weather. The other type, most often called a Retention Pond, allows for water to be held as long as possible and may or may not allow for the controlled release of water. In some cases, the water is allowed to seep into the permeable banks or gravel strata in the foundation. This latter type is sometimes called a Water-Spreading Dam or Dike because its main purpose is to recharge the underground water supply. Detention dams are also constructed to trap sediment. These are often called Debris Dams.

Developable Acres, Net. See "Acres, net."

Developable Land. Land that is suitable as a location for structures and that can be developed free of hazards to, and without disruption of, or significant impact on, natural resource areas.

Developer. Any person, firm, partnership, association, joint venture, corporation, or nay entity or combination of entities which seeks City approvals for all or part of a development project. Developer includes owner.

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 Section 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.

Development Fee. See "Impact Fee."

Development Rights. The right to develop land by a land owner who maintains fee-simple ownership over the land or by a party other than the owner who has obtained the rights to develop. Such rights usually are expressed in terms of density allowed under existing zoning. For example, one development right may equal one unit of housing or may equal a specific number of square feet of gross floor area in one or more specified zone districts. (See "Interest, Fee" and "Interest, Less-than-fee," and "Transfer of Development Rights [TDR].")

Development Standards. Specific requirements in a zoning ordinance or a comprehensive land use code that governs building and development as distinguished from use restrictions. For example, Development Standards would include the following site-design regulations: lot area, width, and depth; floor area ratio; site coverage; buildable area; topography development constraints; height; landscaping; parking; and signage. Also see "Standards."

Diameter of a Tree. See "Trees."

Director. The City of Arcata Community Development Director or designee of the Director.

Disaster Shelter. A facility that provides immediate and short-term housing and supplemental services for persons displaced by a major emergency or disaster. The siting of Disaster Shelters is exempt from the planning review process.

Discharge. See "Grading."

Discretionary Decision. As used in CEQA, an action taken by a governmental agency that calls for the exercise of judgment in deciding whether to approve and/or how to carry out a project.

Discretionary Permit. A City land use review and entitlement process where the review authority exercises discretion in deciding to approve or disapprove the permit. Includes Minor Use Permits, Use Permits, Variances, Design Review Approval, Planned Development Permits, and Subdivision Maps.

Diseased Tree. See "Trees."

District. An area of a city or county that has a unique character identifiable as different from surrounding areas because of distinctive architecture, streets, geographic features, culture, landmarks, activities, or land uses. Also see "Zoning District", "Historic District", and "Neighborhood Conservation Area."

Diversity. Differences among otherwise similar elements that give them unique forms and qualities; e.g., housing diversity can be achieved by differences in unit size, tenure, or cost.

Drainage Improvement. See "Grading."

Drip line. See "Trees."

Drive-through Sales or Services. 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, automated teller machines (ATM's), dry cleaners/laundromats, etc., but do not include service stations or other vehicle services, which are separately defined.

Drop-in Center. A facility that provides services primarily for homeless clients, such as but not limited to hot meals, food boxes, food distribution, showers, laundry facilities, clothing, transportation, television, mail and phone contact services, support groups, and service referrals, but does not provide overnight accommodations.

Dry-lot Livestock Operation. Any 24-hour concentrated livestock operation that is usually conducted outdoors within a confined setting (i.e. below the Animal Keeping Standards as identified in Table 4-2 of this Land Use Code) for a period lasting more than six months. This type of activity does not include temporary operations for the weaning of animals or for the conditioning of animals for personal slaughter.

Due South. See "Solar Access."

Duplex. A detached building under single ownership that is designed for occupation as the residence of two families living independently of each other. See also "Multi-Family Housing" and "Second Units".

Dwelling Unit. A room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), that constitutes an independent housekeeping unit, occupied or intended for occupancy by 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. Usually the right to use property owned by another for specific purposes or to gain access to another property.

Easement, Conservation. A tool for acquiring open space with less than full-fee purchase, whereby a public agency buys only certain specific rights from the land owner. These may be positive rights (providing the public with the opportunity to hunt, fish, hike, or ride over the land) or they may be restrictive rights (limiting the uses to which the land owner may devote the land in the future).

Easement, Scenic. A tool that allows a public agency to use an owner's land for scenic enhancement, such as roadside landscaping or vista preservation.

Economic Development Committee (EDC). An agency charged with seeking economic development projects and economic expansion at higher employment densities.

Elderly. Persons of age 62 and older.

Elderly Housing. See "Senior Housing".

Emergency. A sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.

1. Level One Emergency. Single Incident. A level one emergency is a Minor to Moderate incident whereby local government resources are adequate and available. Example would be a natural disaster, structure fire, medical aid, vehicle accident, hazardous material, minor flooding, or a law enforcement incident. If two or more responding agencies/departments are involved with this level of incident, they will establish the Incident Command System.

2. Level Two Emergency. Widespread to Series of Incidents. A level two emergency is a Moderate to Severe emergency whereby local government resources are becoming overtaxed, and/or Operational Area mutual aid resources are being requested in support to Law Enforcement, Fire-Rescue, Public Works operations from the seven cities, special districts and/or Humboldt County departments and agencies. At this level, local government Emergency Operations Centers may be activated with minimum staffing for resource coordination in support to one or more Incident Commands. At this level, any one of the Cities Director of Emergency Services and/or Humboldt County Director of Emergency Services (Sheriff) may declare a Local Proclamation of Emergency in support to response and recovery operations.

3. Level Three Emergency. Widespread Catastrophe. A level three emergency is a Major Emergency or Disaster wherein resources in or near Humboldt County are overwhelmed and extensive local, state and/or federal mutual aid resources are required. At this level, it is usually automatic that a Local Proclamation of Emergency is declared and a Governor's State of Emergency is requested or declared. Humboldt Operational Area (OA) EOC would be fully activated in support to the cities and field response incident commands.

Emergency Shelter. A facility that provides immediate and short-term housing and supplemental services for the homeless. Shelters come in many sizes, but an optimum size is considered to be 20 to 40 beds. Supplemental services may include food, counseling, and access to other social programs. (Also see "Transitional Housing.")

Eminent Domain. The right of a public entity to acquire private property for public use by condemnation, and the payment of just compensation.

Emission Standard. The maximum amount of pollutant legally permitted to be discharged from a single source, either mobile or stationary.

Endangered Species. A species of animal or plant is considered to be endangered when its prospects for survival and reproduction are in immediate jeopardy from one or more causes.

Environment. CEQA defines environment as "the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, mineral, flora, fauna, noise, and objects of historic or aesthetic significance."

Environmental Buffer Area (EBA). See "Environmentally Sensitive Habitat Area (ESHA)".

Environmental Impact Report (EIR). A report required pursuant to the California Environmental Quality Act which assesses all the environmental characteristics of an area, determines what effects or impacts will result if the area is altered or disturbed by a proposed action, and identifies alternatives or other measures to avoid or reduce those impacts. (See "California Environmental Quality Act.")

Environmental Impact Statement (EIS). Under the National Environmental Policy Act, a statement on the effect of development proposals and other major actions that significantly affect the environment.

Environmentally Sensitive Habitat Area (ESHA) definitions.

1. Artificial Wetlands. Upland that has had wetland hydrology and vegetation artificially created or planted, usually to replace wetlands that were allowed to be converted.

2. Average Low Flow Line. The elevation or point where flowing or pooled water intercepts the stream bank during the late summer season, in a normal rainfall year. This is typically evident by the change in vegetation on the stream bank.

3. Creek Zone. The area that is 25 feet outward from the top of bank, or the area bounded by the FEMA Flood Zone A line, whichever is greater, except that in no case will the creek zone on either side of a creek be wider than 100 feet from the average low flow line of the creek.

4. Coastal Creek Zone. A Creek Zone that is located within the Coastal Zone.

5. Environmental Buffer Area (EBA). An area of land separating all permitted development from adjacent sensitive habitat, streams and wetlands. The purpose of the buffer area is to prevent any degradation of the ecological functions provided by the area as a result of the development.

6. Farmed Wetland. A wetland that has been diked or drained to prevent the saturated soil conditions that would normally occur, to conduct agricultural activities (e.g., grazing), that do not require the most productive agricultural soils. These lands would typically revert to freshwater, brackish, or saltwater marsh should the dike barriers be removed. In their present state, these lands are frequently covered by shallow water during the rainy season.

7. Hydric Soils. Soils that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part.

8. Hydrophytic Vegetation. Plant life growing in water or on a substrate that is at least periodically deficient in oxygen (during a growing season) as a result of excessive water content.

9. Public Trust Lands. Lands to which California received title upon its admission to the Union and that are held by virtue of its sovereignty under the authority of the California State Lands Commission. These are lands under navigable waters including the ocean and navigable streams, and include lands formerly under water.

10. Riparian Corridor. Coastal Zone only; this term specifically applies to areas (along creeks) identified as "riparian corridors" on the Arcata Coastal Wetlands Map. Identified riparian corridors shall be regulated as wetlands where the riparian corridors extend beyond the creek zone.

11. Riparian Lands. Riparian lands are comprised of the vegetative and wildlife areas adjacent to perennial and intermittent streams. Riparian areas are delineated by the existence of plant species normally found near freshwater.

12. Stream. Any stream or waterway governed by the Arcata Creeks Management Plan, as amended, including McDaniel Slough, Gannon Slough and Butcher Slough.

13. Stream Corridor. A horizontal distance of 100 feet measured from each side of the center line of the stream, totaling a width of 200 feet; or a horizontal distance of 50 feet measured from the top of each stream or creek bank, whichever is greater. The Planning Commission may establish different horizontal measurements to match specific stream environments.

14. Stream or Creek Bank. The point where the break in slope occurs between a stream channel and surrounding topography.

15. Top of Bank. The furthest break in slope of the bank to each side of a creek. Where the top of the bank is not clearly defined by an obvious break in slope, the City Engineer shall determine the location of the top of bank.

16. Watercourse. Natural or once natural flowing (perennially or intermittently) water including rivers, streams, and creeks. Includes natural waterways that have been channelized, but does not include manmade channels, ditches, and underground drainage and sewage systems.

17. Watershed. The total area above a given point on a watercourse that contributes water to its flow; the entire region drained by a waterway or watercourse that drains into a lake, or reservoir.

18. Wetland. An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands are lands where the water table is at, or near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent or drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salt or other substances in the substrate. These wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep water habitats.

19. Wetland Buffer Area. Within the Coastal Zone, the area between the edge of a wetland and the nearest paved road or the area within 250 feet of the edge of a wetland, whichever is less. The certified Coastal Wetlands Map shall be used to determine the location of the Wetland Buffer Area.

20. Wetland Delineation. The delineation by a qualified professional of the boundaries of a wetland as defined under "Wetland". For the purpose of approving development affecting a wetland, delineations shall be finalized through the :WP overlay zone review procedures.

21. Wetland Setback. An area of land adjoining a wetland, that the Commission or Zoning Administrator determines to be necessary to limit development to protect an adjoining wetland. Applies both within and outside of the Coastal Zone.

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 9.42.050.

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.

Erosion. See “Grading.”

Erosion and Sediment Control Plan. See “Grading.”

Exaction. A contribution or payment required as an authorized development permit precondition; usually refers to mandatory dedication (or fee in lieu of dedication) requirements found in many subdivision regulations.

Excavation. See “Grading.”

Exception. See “Flood Hazard Management.”

Expansive Soils. Soils that swell when they absorb water and shrink as they dry.

Extended Hour Retail. Any business that is open to the public between the hours of 11 p.m. and 6 a.m.

External Subsidy. See “Affordable and Inclusionary Housing.”

F. Definitions, "F."

Family. (1) Two or more persons related by birth, marriage, or adoption [U.S. Bureau of the Census]. (2) An individual or a group of persons living together who constitute a bona fide single-family housekeeping unit in a dwelling unit, not including a fraternity, sorority, club, or other group of persons occupying a hotel, lodging house or institution of any kind [California].

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."

Farmed Wetland. See “Environmentally Sensitive Habitat Area (ESHA)”.

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 Section 1392 et seq.

Fault. A fracture in the earth’s crust forming a boundary between rock masses that have shifted.

Feasible. Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors. These factors may include topographic contour, orientation, grading, slope stability, tree preservation, access to existing streets, and others.

Fill. See “Grading.”

Finding(s). The result(s) of an investigation and the evidentiary basis upon which decisions are made. Findings are used by government agents and bodies to justify action taken by the entity.

Fire Hazard Zone. An area where, due to slope, fuel, weather, or other fire-related conditions, the potential loss of life and property from a fire necessitates special fire protection measures and planning before development occurs.

Fire-resistive. Able to withstand specified temperatures for a certain period of time, such as a one-hour fire wall; not fireproof.

First-Time Home Buyer. See “Affordable and Inclusionary Housing.”

Fitness/Health Facility. See “Health/Fitness Facility.”

Flood Hazard Management. The following terms and phrases are defined for the purposes of Chapter 9.60 (Flood Hazard Mitigation Standards).

1. Area of Shallow Flooding. A designated AO, AH or Zone on the Flood Insurance Rate Map (FIRM). The base flood depth ranges from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

2. Base Flood. See "100-year flood" definition.

3. Basement. Any area of a building having its floor below ground level on all sides.

4. Breakaway Wall. Any type of wall, whether solid or lattice, and constructed of concrete, masonry, wood, metal, plastic or any other suitable building material that is not part of the structural support of the building, and is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any building to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. The use of breakaway walls must be certified by a registered civil engineer or architect and shall meet the following conditions:

a. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

b. The elevated portion of the building shall not incur structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

5. Coastal High Hazard Area. The area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE or V.

6. Exception. A grant of relief from the requirements of Chapter 9.60 which permits construction in a manner that would otherwise be prohibited by Chapter 9.60.

7. Flood, or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of flood waters, (2) the unusual and rapid accumulation or run-off of surface waters from any source, and/or (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

8. Flood Boundary, and Floodway Map. The official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

9. Flood Insurance Rate Map (FIRM). The official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

10. Flood Insurance Study. The official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

11. Flood Plain. The relatively level land area on either side of the banks of a stream regularly subject to flooding. That part of the flood plain subject to a one percent chance of flooding in any given year is designated as an “area of special flood hazard” by the Federal Insurance Administration.

12. Flood Plain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations.

13. Flood Plain Management Regulations. Zoning articles, subdivision regulations, building codes, health regulations, special purpose ordinances (such as flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. State or local regulations in any combination, which provide standards for the purpose of flood damage prevention and reduction.

14. Floodproofing. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

15. Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved from the intrusion of development that could result in any increase in flood levels during the occurrence of the base flood discharge. Also referred to as "Regulatory Floodway."

16. Functionally Dependent Use. A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

17. Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

18. Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-residential design requirements of this Land Use Code.

19. Mean Sea Level. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referred.

20. National Flood Insurance Program. A federal program that authorizes the sale of federally subsidized flood insurance in communities where such flood insurance is not available privately.

21. New Construction. For flood plain management purposes, structures for which the "start of construction" commenced on or after the effective date of a flood plain management regulation adopted by this community.

22. 100-Year Flood. The magnitude of a flood expected to occur on the average every 100 years, based on historical data. The 100-year flood has a one percent chance of occurring in any given year. It is identical to the "base flood."

23. Remedy a Violation. To bring the structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Article or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

24. Riverine. Relating to, formed by, or resembling a river (including tributaries), street, brook, etc.

25. Sand Dunes. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

26. Special Flood Hazard Area (SFHA). An area having special flood or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, VO, V1-V30, VE or V.

27. Start of Construction. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

28. Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the replacement cost of the structure either:

a. Before the improvement or repair is started; or

b. If the structure has been damaged, and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any:

a. Project for improvement of a structure to comply with state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

b. Alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

29. Violation. The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Article is presumed to be in violation until such time as that documentation is provided.

Floor Area, Gross. The sum of the horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including any space where the floor-to-ceiling height is less than six feet.

Floor Area Ratio (FAR). The gross floor area permitted on a site divided by the total net area of the site, expressed in decimals to one or two places. For example, on a site with 10,000 net sq. ft. of land area, a Floor Area Ratio of 1.0 will allow a maximum of 10,000 gross sq. ft. of building floor area to be built. On the same site, an FAR of 1.5 would allow 15,000 sq. ft. of floor area; an FAR of 2.0 would allow 20,000 sq. ft.; and an FAR of 0.5 would allow only 5,000 sq. ft. FARs typically are applied on a parcel-by-parcel basis as opposed to an average FAR for an entire land use or zoning district. See Figure 10-1.

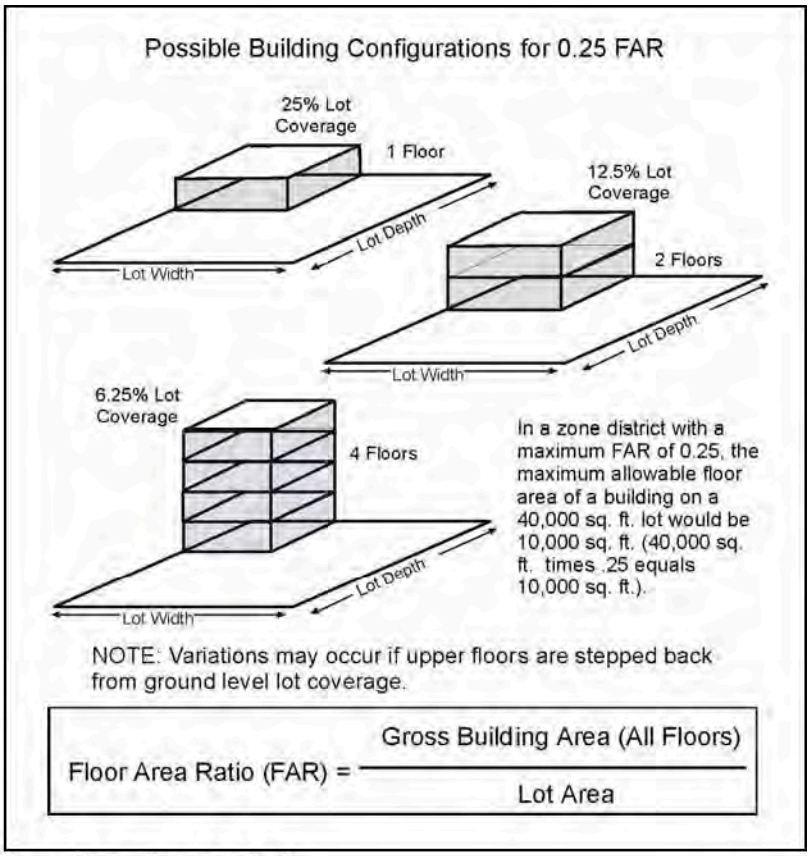

Figure 10-1 - Floor Area Ratio

Footprint; Building Footprint. The outline of a building at all of those points where it meets the ground.

Forestry. The operation and harvesting of timber tracts, tree farms, forest nurseries, and related activities including reforestation; also includes the gathering of gums, barks, sap, moss and other forest products. Does not include lumber mills, which are included under the definition of "Manufacturing - Medium Intensity."

Forest Stand. See “Trees.”

Front Yard. See “Yard.”

Fuel Dealer. A retail trade establishment that sells fuel oil, butane, propane and liquefied petroleum gas (LPG), or alternative fuels, bottled or in bulk, to consumers.

Functionally Dependent Use. See "Flood Hazard Management."

Furniture/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."

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
- movable spas and hot tubs
- office furniture
- other household electrical and gas appliances
- outdoor furniture
- refrigerators
- 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 9.36 (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 Code for covered parking spaces.

Gas Station. "See Service Station."

General Plan. The City of Arcata 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 the Land Use Code as the General Plan. The General Plan serves as the constitution of a community; the General Plan expresses the goals, policies, and direction to provide the basis for rational decisions regarding the long-term development of a community.

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 framing services
- auction rooms
- bicycles
- books, magazines, and newspapers
- cameras and photographic supplies
- clothing, shoes, and accessories
- collectibles (cards, coins, comics, stamps, etc.)
- department stores
- drug stores and pharmacies
- dry goods
- fabrics and sewing supplies
- florists and houseplant stores (indoor sales only - outdoor sales are "Building and Landscape Materials Sales")
- groceries, food products
- hobby materials
- jewelry
- luggage and leather goods
- musical instruments, parts and accessories
- orthopedic supplies
- religious goods
- small wares
- specialty shops
- sporting goods and equipment
- stationery
- toys and games
- variety stores

Geologic Review. The analysis of geologic hazards, including all potential seismic hazards, surface ruptures, liquefaction, landslides, mudslides, and the potential for erosion and sedimentation.

Golf Course, Country Club. Golf courses, and accessory facilities and uses including: clubhouses with bar and restaurant, locker and shower facilities; driving ranges; "pro shops" for on-site sales of golfing equipment; and golf cart storage and sales facilities.

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 Chapter 9.64 (Grading, Erosion, and Sediment Control).

1. Bench. A relatively level step excavated into earth material on which fill is to be placed.

2. BMP. Best Management Practices, as defined by the State Water Resources Control Board's Best Management Practices Construction Handbook.

3. Channel or Drainage Way. A natural or artificial open watercourse with definite bed and banks which periodically or continuously contains moving water or forms a connecting link between two bodies of water.

4. Discharge. The outflow rate of surface water.

5. Drainage Improvement. Any element in a drainage system which is made or improved by a human.

6. Erosion. (1) The loosening and transportation of rock and soil debris by wind, rain, or running water. (2) The gradual wearing away of the upper layers of earth.

7. Erosion and Sediment Control Plan. A plan that fully indicates necessary land treatment and structural measures, including a schedule of timing for their installation, which will effectively minimize soil erosion and sediment yield. Such measures shall be in accordance with standards shown in the City of Arcata Erosion and Sediment Control Handbook.

8. Excavation. The physical removal of earth material.

9. Fill. The deposit of earth material caused or placed by artificial means.

10. Grading. Any excavating, filling, or any combination thereof.

11. Land Disturbing Activity. Any land change which may result in soil erosion from water, wind and the movement of sediments onto adjacent properties. Such activities include but are not limited to clearing, grading, excavating, transporting and filling of land.

12. Mulch. A natural or artificial layer of material placed on exposed earth to provide more desirable moisture and temperature relationships for plant growth. It is also used to control the occurrence of unwanted vegetation.

13. Natural or Existing Grade. The contour of the ground surface before grading.

14. Sediment. Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, or gravity.

15. Sediment Detention Basin. A sediment detention basin is a reservoir which retains flows sufficiently to cause deposition of transported sediment.

16. Short Form [Erosion and Sediment Control Plan]. A simplified form, issued by the Building Official, for erosion and sediment control plans for certain qualifying minor grading projects.

17. Storm Water Runoff. The waters which result from rainfall flowing over the surface of the ground.

18. Swale. A low lying stretch of land which gathers or carries surface water runoff.

19. Terrace. A relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

Greenbelt. A strip of land, in or adjacent to a city, that contains open space such as wetlands, natural resource lands, parks, farms, or vacant land.

Greenfield. Undeveloped or even developed lands that do not have previously identified or suspected environmental contamination.

Greenhouse or Nursery Structure. A commercial or hobby agricultural structure for the production of plants and other nursery products, grown under cover either in containers or in the soil on the site (soil dependent). The outdoor production of ornamental plants in the soil on the site is instead included under "Crop Production, Horticulture, Orchard, Vineyard." The sale of house plants or other nursery products entirely within a building is also included under "General Retail."

Greenwaste. Means waste tree trimmings, brush, lawn clippings, or untreated wood.

Grocery Store. 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.

Ground Disturbing Activity. Any activity associated with the cultivation or tillage of soil for agricultural, tree planting, crop production, home gardening, or similar activities that are exempt from other activities that are associated with Grading or Land Disturbing Activities.

Ground Failure. Ground movement or rupture caused by strong shaking during an earthquake. Includes landslide, lateral spreading, liquefaction, and subsidence.

Ground Shaking. Ground movement resulting from the transmission of seismic waves during an earthquake.

Groundwater. Water under the earth's surface, often confined to aquifers capable of supplying wells and springs.

Groundwater Recharge. The natural process of infiltration and percolation of rainwater from land areas or streams through permeable soils into water-holding rocks that provide underground storage ("aquifers").

Group Quarters. A residential living arrangement in which more than six unrelated persons share living quarters and cooking facilities. Group quarters may include, but are not limited to, any of the following: drug/alcohol rehabilitation centers, halfway houses, housing for handicapped or disabled persons, foster care center, or a care facility for 24-hour medical care of persons in need of personal services, supervision, or assistance for sustaining the activities of daily living or for the protection of the individual.

Growth Management. The use by a community of a wide range of techniques in combination to determine the amount, type, and rate of development desired by the community and to channel that growth into designated areas. Growth management policies can be implemented through growth rates, zoning, capital improvement programs, public facilities ordinances, urban limit lines, standards for levels of service, and other programs. (See "Congestion Management Plan.")

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.

Habitat. The physical location or type of environment in which an organism or biological population lives or occurs.

Handicapped. A person determined to have a physical impairment or mental disorder expected to be of long or indefinite duration. Many such impairments or disorders are of such a nature that a person's ability to live independently can be improved by appropriate housing conditions.

Hazardous Material. Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. The term includes, but is not limited to, hazardous substances and hazardous wastes.

Hazardous Tree. See "Trees."

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 sex oriented businesses.
Height. See Section 9.30.040 (Height Limits and Exceptions).

Highest Adjacent Grade. See "Flood Hazard Management."

Historical Resource Preservation definitions:

1. Adaptive Use/Reuse. The process of converting a building to a use other than that for which it was designed.

2. Alteration of a Historic Resource. Any exterior change or modification, through public or private action, of any historical resource, whether formally designated or determined eligible for listing which involves exterior changes to or modification of a structure, its surface texture, or its architectural details that includes: new construction; partial demolition; relocation of structures onto, off of, or within a designated property or parcel located in a Neighborhood Conservation Area or other changes to the site affecting the significant historical or architectural features of the property.

3. Archeological Site. A bounded area of a resource containing archeological deposits or features that is defined in part by the character and location of such deposits or features.

4. Demolition. The destruction or removal of a structure, or parts of a structure that is so extensive that the historic character of a designated historic resource is completely removed and cannot be repaired or replaced.

5. Historic Conservation Easement. A less than fee simple interest in real property recorded as a deed restriction which is designed to protect the historical, cultural, archaeological, or ecological characteristics of a property.

6. Historic Context. An organizing structure for interpreting history that groups information about historical resources sharing a common theme, geographical area, or chronology. The development of "historic context" is a foundation for decisions regarding the planning, identification, evaluation, registration, and treatment of historical resources based upon comparative historic significance.

7. Historic District or Area. A geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development.

8. Historic Fabric. (1) With regard to an historic building, "historic fabric" means the particular materials, ornamentation, and architectural features which are consistent with the historic character of the building. (2) With regard to an historic district, "historic fabric" means all sites, buildings, structures, features, objects, landscaping, street elements, and related design components of the district which are consistent with the historic character of the district. (3) With regard to an archeological district, "historic fabric" means sites, standing structures or buildings, historic landscape (land disturbance such as grading or construction), features (remnants of walls), and objects (artifacts) which are consistent with the historic character of the district.

9. Historic Integrity. The ability of a resource to convey its historical significance.

10. Historical Preservation. The preservation of historically significant structures and neighborhoods until such time as, and in order to facilitate, restoration and rehabilitation of the building(s) to a former condition.

11. Historical Resource. Any site, building, structure, area or place, man-made or natural, which meets the CEQA criteria for an historic resource as determined by a professional historian, architectural historian, cultural resources consultant, heritage resources consultant, archaeologist or qualified professional from a related field.

12. Historical Resources Inventory. A set of data, such as a list of historical resources, generated through a Historical Resources Survey.

13. Historical Resources Survey. The process of systematically identifying, researching, photographing, and documenting historical resources within a defined geographic area.

14. Landmark. (1) A building, site, object, structure, or significant tree, having historical, architectural, social, or cultural significance and marked for preservation by the local, state, or federal government. (2) A visually prominent or outstanding structure or natural feature that functions as a point of orientation or identification.

15. Landscape, Cultural. A geographic area that (1) has been used, shaped, or modified by human activity, occupation, intervention; or (2) possesses significant value in the belief system of a culture or society.

16. Local government. A public agency with land-use control authority over a designated historical resource. Local governments may include special district, tribal, city, or county governments.

17. Local Register of Historic Places. A landmark list established by the City of Arcata of locally, regionally, and/or nationally significant properties and districts within the City that have been formally designated.

18. National Historic Preservation Act of 1966 (NHPA). (16 U.S.C. 470 (1966) (amended)). Established the National Register of Historic Places. Created a partnership between federal, state, and local agencies to extend the national historic preservation programs to properties of state and local significance.

19. National Register of Historic Places. The official list, established by the National Historic Preservation Act, of sites, districts, buildings, structures, and objects significant in the nation's history or whose artistic or architectural value is unique.

20. Neighborhood Conservation Area. An area within the City designated by the General Plan to be historically noteworthy where review is conducted to assure that new construction, modifications or alterations of noteworthy structures, and significant changes to other structures are harmonious with the existing character of the neighborhood.

21. Non-contributing Structure or Building. A building or structure located within a designated historic district or Neighborhood Conservation Area that does not possess the qualifications or characteristics of an eligible building due to such factors as age or alteration, but has been included within the district because of its impact on the geographic integrity and overall character of the district.

22. Noteworthy Structures. Those structures that may be eligible for Historic Landmark designation and may not have complete documentation as to their historical or architectural merit.

23. Office of Historic Preservation (OHP). The California State Office of Historic Preservation in Sacramento.

24. Preservation. The act or process of applying measures to sustain the existing form, integrity and material of an historic resource. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

25. Reconstruction. The act or process of reproducing by new construction the exact form and detail of a vanished building, structure or object, or a part thereof, as it appeared at a specified period of time.

26. Recordation, County. Section 27288.2 of the Government Code and Section 5029 of the Public Resources Code require the County Recorder to record a certified resolution of historical resources designation containing the name of the current property owner, the historical resources registration program, the designating entity, the specific historical resources designation, and a legal description of the property.

27. Regional Information Center. An Information Center of the California Historical Resources Information System, under contract to the Office of Historic Preservation, which receives, manages, and provides information on historical and archeological resources. "An Information Center" may also provide training or technical assistance on a fee-for-service basis.

28. Rehabilitation. The act or process of making a compatible use for a property through repair, alterations and additions while preserving those portions or features which convey its historical, cultural or architectural values.

29. Remodeling. Making over or rebuilding all or part of an historic structure in a way that does not necessarily preserve its historical, architectural, and cultural features and character.

30. Restoration. The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

31. Secretary of the Interior's Standards. The Secretary of the Interior's Standards for the Treatment of Historic Properties published by the U.S. Department of the Interior that provide the standards and guidelines for appropriate rehabilitation, restoration, preservation and new construction to historic buildings and within historic districts.

32. Significance. A term ascribed to buildings, sites, objects, or districts that possess exceptional value or quality for illustrating or interpreting the cultural heritage of the community when evaluated in relation to other properties and property types within a specific historic theme, period, and geographical setting. A principal test of significance for historic property is "integrity."

33. Significant Architectural Features. The architectural elements embodying style, design, general arrangement and components of all of the outside surfaces of a building, structure or object, including but not limited to the type of building materials and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such building, structure or object that have special historical, architectural, cultural or aesthetic interest or values and have been designated as such under a local, state or federal historic property registration program.

34. Stabilization. The act or process of applying measures designed to reestablish a weather resistant enclosure or the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

35. State Historical Building Code (SHBC). The State Historical Building Code is contained in Part 8 of Title 24 (State Building Standards Code) and applies to all qualified historical structures, districts, and sites designated under federal, state, or local authority. It provides alternatives to the Uniform Building Code in cases consistent with building regulations for the rehabilitation, preservation, restoration, or relocation of qualified historic structures designated as historic buildings.

Home Occupation. The conduct of a business within a dwelling unit or residential site, employing only the occupants of the dwelling (unless waived through the Minor Use Permit process), with the business activity being subordinate to the residential use of the property.

Hostel. See "Lodging."

Hotel or Motel. See "Lodging."

Household. All those persons-related or unrelated, who occupy a single housing unit (see "Family").

Household Pets. The keeping/raising of birds, cats, dogs, or other common household animals, as determined by the Director, accessory to a residential use.

Households, Number of. The count of all year-round housing units occupied by one or more persons. The concept of household is important because the formation of new households generates the demand for housing. Each new household formed creates the need for one additional housing unit or requires that one existing housing unit be shared by two households. Thus, household formation can continue to take place even without an increase in population, thereby increasing the demand for housing.

Housing Trust Fund. See "Affordable and Inclusionary Housing."

Housing Unit. The place of permanent or customary abode of a person or family. A housing unit may be a single-family dwelling, a multi-family dwelling, a condominium, a modular home, a mobile home, a cooperative, or any other residential unit considered real property under State law. A housing unit has, at least, cooking facilities, a bathroom, and a place to sleep. It also is a dwelling that cannot be moved without substantial damage or unreasonable cost. (See "Dwelling Unit," "Family," and "Household.")

Hydric Soils. See "Environmentally Sensitive Habitat Area (ESHA)".

Hydrophytic. See "Environmentally Sensitive Habitat Area (ESHA)".

I. Definitions, "I."

Impact. The effect of any direct man-made actions or indirect repercussions of man-made actions on existing physical, social, or economic conditions.

Impact Fee. A fee, also called a development fee, levied by a city, county, or other public agency on the developer of a project as compensation for otherwise-unmitigated impacts the project will produce. Sections 66000, et seq., specify that development fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged. To lawfully impose a development fee, the public agency must verify its method of calculation and document proper restrictions on use of the fund.

Impervious Surface. Surface through which water cannot penetrate, such as roof, road, sidewalk, and paved parking lot. The amount of impervious surface increases with development and establishes the need for drainage facilities to carry the increased runoff.

Implementation Measure. Actions, procedures, programs, or techniques that carry out policies.

Incineration. The burning of refuse at high temperatures to reduce the volume of waste.

Inclusionary Housing Plan. See "Affordable and Inclusionary Housing."

Inclusionary Incentives. See "Affordable and Inclusionary Housing."

Inclusionary Unit. See "Affordable and Inclusionary Housing."

Inclusionary Zoning. Provisions established by a public agency to require that a specific percentage of housing units in a project or development remain affordable to very low, low, and moderate-income households for a specified period.

Incubator Space. Retail or industrial space that is affordable to new, low-margin businesses.

Independent Living Center/Senior Apartment. See "Residential Care Facility for the Elderly (RCFE)."

Industrial. The manufacture, production, and processing of consumer goods. Industrial is often divided into "heavy industrial" uses, such as construction yards, quarrying, and factories; "moderate impact manufacturing", and "light industrial" uses, such as research and development and less intensive warehousing and manufacturing.

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. Includes pharmaceutical, chemical and biotechnology research and development. Does not include soils and other materials testing laboratories (see "Laboratory"), or medical laboratories (see "Medical Service - Clinic, Laboratory, Urgent Care").

Industrial Zoning District. Any of the industrial zoning districts established by Section 9.12.020 (Zoning Map and Zoning Districts).

Infill Development. Development, redevelopment or reuse of land that is either underutilized, brownfield or vacant, but substantially surrounded by existing urban development. In all instances, infill development occurs on sites that already have sufficient City services immediately available. Infill development may include new residential units on upper floors of commercial structures, development of second units on residential lots, and new or expansion of existing residential and commercial structures and uses consistent with the provisions of the applicable land use and zoning designations.

Infrastructure. Public services and facilities, such as sewage-disposal systems, water-supply systems, other utility systems, and roads.

Initial Owner. See "Affordable and Inclusionary Housing."

In Lieu Fee. See "Dedication, in lieu of."

Intensification of Use. A change in the use of a structure or site, where the new use is required by this Land Use 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.

Intensity, Building. For residential uses, the actual number or the allowable range of dwelling units per net or gross acre. For non-residential uses, the actual or the maximum permitted floor area ratios (FARs).

Interpretive Center. A facility where information oriented to students and the general public is provided about natural resources on the site or in the vicinity of the facility. May include areas for displays and presentations, meetings, research, facility management, and overnight camping related to the resources and/or areas that are the subject of the center.

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. 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.

L. Definitions, "L."

Laboratory - Medical, Analytical, Testing. A facility for testing, analysis, and/or research. Examples of this use include medical labs, soils and materials testing labs, and forensic labs.

Land Banking. The purchase of land by a local government for use or resale at a later date. "Banked lands" have been used for development of low- and moderate-income housing, expansion of parks, and development of industrial and commercial centers. Federal rail-banking law allows railroads to bank unused rail corridors for future rail use while allowing interim use as trails.

Land Disturbing Activity. See "Grading."

Landmark. See "Historical Resource Preservation."

Landmark Trees. See "Trees."

Landscape, Cultural. See "Historical Resource Preservation."

Landslide. Downslope movement of soil and/or rock, which typically occurs during an earthquake or following heavy rainfall.

Land Use. The purpose for which a lot or structure is or may be leased, occupied, maintained, arranged, designed, intended, constructed, erected, moved, altered, and/or enlarged in accordance with the City zoning ordinance and General Plan land use designations.

Land Use Code (LUC). The City of Arcata Land Use Code, Title 9 of the Arcata Municipal Code, referred to within this document as the comprehensive land use code or LUC. The Land Use Code is the implementation tool of the General Plan as it prescribes zoning, mapping, specific development standards, and other regulations to carry out the goals, policies, and direction of the General Plan.

Land Use Permit. Authority granted by the City to use a specified site for a particular purpose. "Land Use Permit" includes Use Permits, Minor Use Permits, Variances, Coastal Permits, Planned Development Permits, Design Review and Zoning Clearances, as established by Article 7 (Planning Permit Procedures).

Landscaping Standards. The following terms are defined for the purposes of Chapters 9.34 (Landscape Standards).

1. **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.

2. 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).

3. Native species. A species that existed in California prior to European contact.

4. 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).

5. Porous mulch. A loose material applied to the soil surface to reduce evaporation and retard weed growth (e.g., compost, decomposed granite, straw, wood chips).

6. 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.

7. Water feature. Ornamental or functional body of water (e.g., a fountain, pool, or pond).

Large Family Day Care Home. See "Day Care."

Lateral Spreading. Lateral movement of soil, often as a result of liquefaction during an earthquake.

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."

Lease. A contractual agreement by which an owner of real property (the lessor) gives the right of possession to another (a lessee) for a specified period of time (term) and for a specified consideration (rent).

Leasehold Interest. (1) The interest that the lessee has in the value of the lease itself in condemnation award determination. (2) The difference between the total remaining rent under the lease and the rent the lessee would currently pay for similar space for the same time period.

Legislative Entitlement. See “Affordable and Inclusionary Housing.”

Level of Service (LOS) Standard. A standard used by government agencies to measure the quality or effectiveness of a municipal service, such as police, fire, or library, or the performance of a facility, such as a street or highway.

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.

Life Care Facility. See “Residential Care Facility for the Elderly (RCFE).”

Liquefaction. The transformation of loose, wet soil from a solid to a liquid state, often as a result of ground shaking during an earthquake.

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 Agency Formation Commission (LAFCO). A five- or seven-member commission within each county that reviews and evaluates all proposals for formation of special districts, incorporation of cities, annexation to special districts or cities, consolidation of districts, and merger of districts with cities. Each county's LAFCO is empowered to approve, disapprove, or conditionally approve such proposals. The LAFCO members generally include two county supervisors, two city council members, and one member representing the general public. Some LAFCOs include two representatives of special districts.

Local Coastal Program (LCP). A combination of a local government's land use plans, zoning ordinances, zoning district maps, and (within sensitive coastal resources areas) other implementing actions that together meet the local requirements of, and implement the provisions and policies of, the California Coastal Act of 1976.

Local Coastal Program Land Use Plan. The relevant portion of a local government general plan or coastal element that details type, location, and intensity of land use, applicable resource protection and development policies, and, where necessary, implementation actions.

Local government. See "Historical Resource Preservation."

Local Register of Historic Places. See "Historical Resource Preservation."

Lodging.

1. Bed and Breakfast Inn (B&B). A residential structure with one or more bedrooms rented for overnight lodging, where meals may be provided subject to applicable Environmental Health Department regulations. Does not include room rental, which is separately defined (see "Rooming or Boarding House").

2. Campground. A site used or intended for use for temporary occupancy by persons traveling by automobile or otherwise, which may include individual campsites, but where utility hookups for recreational vehicles are not provided.

3. Hostel. The provision of overnight lodging in dormitories or shared rooms, with shared bathroom facilities.

4. 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.

5. Recreational Vehicle (RV) Park. A site where one or more lots are used, or are intended to be used, by persons 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.

6. Vacation Rental. Rental of primary residences and secondary units on a seasonal or short term basis.

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 Code. Types of lots include the following. See Figure 10-2 (Lot Types).

1. Corner Lot. A lot located at the intersection of two or more streets.

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, the front of which adjoins the side property line of a corner lot.

5. Reverse Corner Lot. A corner lot, the rear of which abuts a key lot.

6. Double Frontage Lot. A lot with frontage on two generally parallel streets.

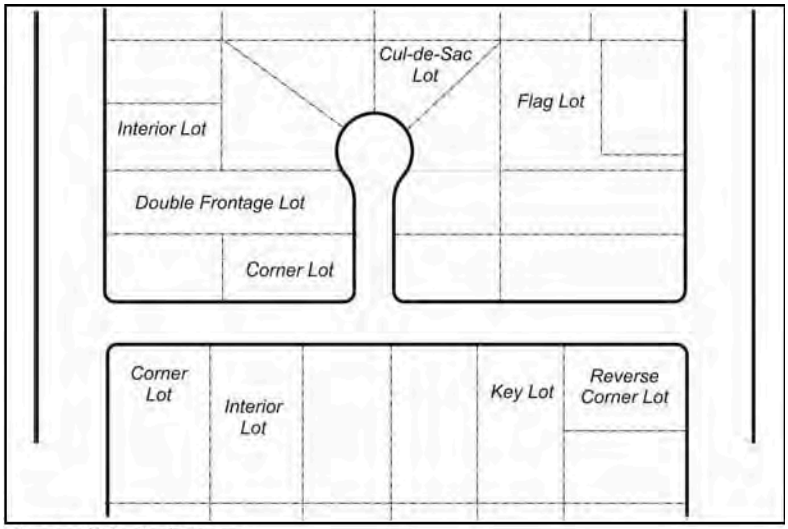

Figure 10-2 - Lot Types

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 10-3 (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.

Lot Line or Property Line. Any recorded boundary of a lot. Types of lot lines are as follows (see Figure 10-3 (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 double-frontage 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.

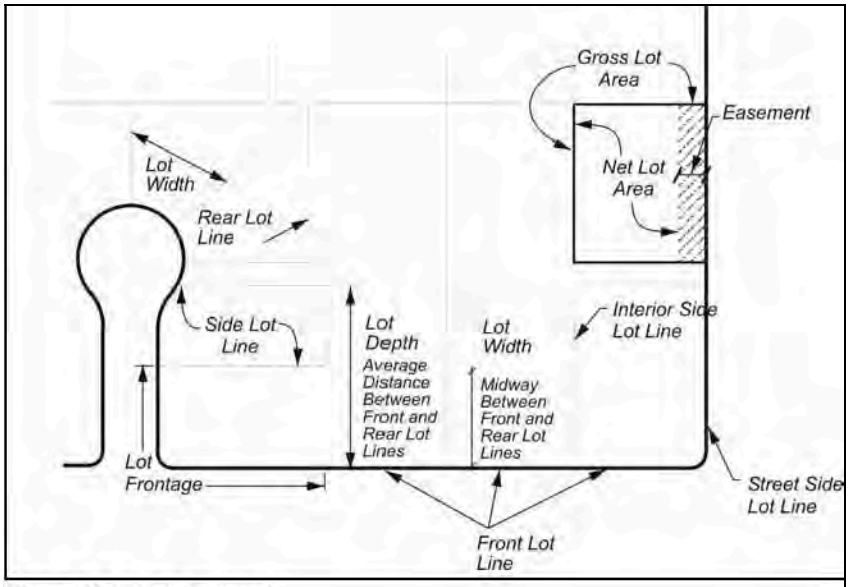

Figure 10-3 - Lot Features

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 10-2 (Lot Features). The Director shall determine lot width for parcels of irregular shape.

Lowest Floor. See "Flood Hazard Management."

Low Income Household. See "Affordable and Inclusionary Housing."

Low-income Housing Tax Credits. See "Affordable and Inclusionary Housing."

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.

Manufactured Home. See "Mobile Home."

Manufactured Housing. Residential structures that are constructed entirely in the factory, and which since June 15, 1976, have been regulated by the federal Manufactured Home Construction and Safety Standards Act of 1974 under the administration of the U.S. Department of Housing and Urban Development (HUD). (See “Mobile Home” and “Modular Unit.”)

Manufacturing/Processing - High Impact. 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 Arcata except where limited varieties are included under the definition of "Manufacturing/Processing - High Impact." 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, alkalis, 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/Processing - Low Impact - 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, liquefied 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/Processing - Low Impact 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/Processing - Low Impact - 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
- dyeing 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, fabric and rugs from yarn
- preparation of fiber and subsequent manufacturing of yarn, threads, braids, knit apparel twine cordage
- scouring and combing plants
- upholstery manufacturing
- yarn and thread mills

10. Lumber and Wood Product Manufacturing. Large scale (one acre or more) manufacturing, processing, storage, 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:

- boxes and cooperages
- 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").

Manufacturing/Processing - Moderate Impact. 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/Processing - Low Impact," but where impacts on surrounding land uses or the community can typically be mitigated to acceptable levels. Examples of moderate impact manufacturing uses include the following.

1. Lumber and Wood Product Manufacturing. Small scale (40,000 square feet or less) manufacturing, processing, storage, 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:

- boxes and cooperages
- 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. 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

4. Motor Vehicles and Transportation Equipment. Manufacturers of equipment and components 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").

5. 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").

6. 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").

7. Biodiesel Production. Fuel production from a mix of oil from biological sources (often waste oil), methanol and sodium hydroxide (lye). This can include mixing with petroleum diesel.

Manufacturing/Processing - Low Impact. A facility accommodating manufacturing processes involving and/or producing: apparel; food and beverage products; electronic, optical, and instrumentation products; ice; jewelry; and musical instruments. Low impact 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 low impact manufacturing/processing uses include the following.

1. Artisan/Craft Product Manufacturing. Establishments manufacturing and/or assembling small products primarily by hand, including yarn, jewelry, pottery and other ceramics, as well as small glass and metal art and craft products.

2. 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/Processing - High Impact - Textile and Leather Product Manufacturing."

3. 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").

4. 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 and confectionery products manufacturing
- catering services separate from stores or restaurants
- coffee roasting
- dairy products manufacturing
- fats 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: retail bakeries; or beer brewing as part of a brew pub, bar or restaurant (see "Bar/Tavern," and "Night Club").

5. Handcraft Industries, Small-Scale Manufacturing. Establishments manufacturing and/or assembling small products primarily by hand, including yarn, 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; musical instruments; pens, pencils, and other office and artists' materials; sporting and athletic goods; toys; etc.

6. 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 - High Impact - Pulp and Pulp Product Manufacturing").

7. 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.

8. Winery. A manufacturing facility where wine grapes are crushed, fermented, aged, bottled, and sold at wholesale as finished wine. May include tasting and accessory retail sales of wine produced on site.

Map Act. See "Subdivision Map Act."

Marijuana. See "Medical Marijuana."

Market Rate. See "Affordable and Inclusionary Housing."

Maximum Allowable Residential Density. See "Affordable and Inclusionary Housing."

May. That which is permissible.

Mean Sea Level. See "Flood Hazard Management."

Median Strip. The dividing area, either paved or landscaped, between opposing lanes of traffic on a roadway.

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. Means marijuana used in strict accordance with the Compassionate Use Act of 1996 (Health and Safety Code §11362.5 et seq) and The Medical Marijuana Program (Health and Safety Code §11362.7 et seq.).

1. Marijuana. "Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, cake, or the sterilized seed of the plant which is incapable of germination.

2. Medical Marijuana Identification Card. A document issued by the State Department of Health Services that document identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any as per California Health and Safety Code §11362.7, and as may be amended.

3. Medical Marijuana Cooperative or Collective. "Medical Marijuana Cooperative of Collective" means an affiliation or association of individuals whose collective intent is to provide education, referral or network services and to assist in the lawful acquisition and distribution of medical marijuana in a safe and affordable manner between primary caregivers and qualified patients as permitted in accordance with the Compassionate Use Act of 1996.

4. Person with an Identification Card. Means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article as per the California Health and Safety Code §11362.7, and as may be amended.

5. Primary Caregiver. Means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, as more particularly as set forth in California Health and Safety Code §11362.7, and as may be amended.

6. Qualified Patient. Means a person who is entitled to the protections of Section 11362.5 of the California Health and Safety Code, but who does not have an identification card issued pursuant to this article as set forth in California Health and Safety Code §11362.7, and as may be amended.

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 three licensed primary practitioners (for example, chiropractors, medical doctors, psychiatrists, etc.) within an individual office suite. 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 - 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").

Meeting Facility, Public or Private. A facility for public or private meetings, including community centers, religious 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: theaters, sports or other commercial entertainment facilities (see "Theater," and "Sports and Entertainment Assembly"); or convention centers (see "Conference/Convention Facility"). Related on-site facilities including day care centers and schools are separately defined.

Mercalli Intensity Scale. A subjective measure of the observed effects (human reactions, structural damage, geologic effects) of an earthquake. Expressed in Roman numerals from I to XII.

Microclimate. See “Landscaping Standards.”

Mineral Resource. Land on which known deposits of commercially viable mineral or aggregate deposits exist. This designation is applied to sites determined by the State Division of Mines and Geology as being a resource of regional significance, and is intended to help maintain the quarrying operations and protect them from encroachment of incompatible land uses.

Ministerial (Administrative) Decision. An action taken by a governmental agency that follows established procedures and rules and does not call for the exercise of judgment in deciding whether to approve a project.

Mitigate. To ameliorate, alleviate, or avoid to the extent reasonably feasible.

Mixed-Use. Properties on which various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design. A "single site" may include contiguous properties.

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, is tied down (a) to a permanent foundation on a lot either owned or leased by the homeowner or (b) is set on piers, with wheels removed and skirted, in a mobile home park 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." (See also "Manufactured Housing" and "Modular Unit.")

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.

Mobile Home, RV, and Boat 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 Recycling Unit. See "Recycling Facility."

Moderate Income Household. See "Affordable and Inclusionary Housing."

Modular Unit. A factory-fabricated, transportable building or major component designed for use by itself or for incorporation with similar units on-site into a structure for residential, commercial, educational, or industrial use. Differs from mobile homes and manufactured housing by (in addition to lacking an integral chassis or permanent hitch to allow future movement) being subject to California housing law design standards. California standards are more restrictive than federal standards in some respects (e.g., plumbing and energy conservation). Also called Factory-built Housing and regulated by State law of that title. (See "Mobile Home" and "Manufactured Housing.")

Mortuary, Funeral Home. Funeral homes and parlors, where deceased are prepared for burial or cremation, and funeral services may be conducted.

Motel. See "Lodging."

Mulch. See "Grading."

Multi-Family Housing. A dwelling unit that is part of a structure containing two or more dwelling units excluding second units. 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 permanent supportive housing and single room occupancy housing where people live as independently as possible with the assistance of social services tailored to each person's needs.

Multiplier Effect. The recirculation of money through the economy multiplies its impact on jobs and income. For example, money paid as salaries to industrial and office workers is spent on housing, food, clothes and other locally-available goods and services. This spending creates jobs in housing construction, retail stores (e.g., grocery and drug stores) and professional offices. The wage paid to workers in those industries is again re-spent, creating still more jobs. Overall, one job in basic industry is estimated to create approximately one more job in non-basic industry.

Municipal Services. Services traditionally provided by local government, including water and sewer, roads, parks, schools, and police and fire protection.

Mural. A very large image, such as a painting or enlarged photograph, applied directly to a wall or ceiling.

Must. That which is mandatory.

N. Definitions, "N."

National Ambient Air Quality Standards. The prescribed level of pollutants in the outside air that cannot be exceeded legally during a specified time in a specified geographical area.

National Environmental Policy Act (NEPA). An act passed in 1974 establishing federal legislation for national environmental policy, a council on environmental quality, and the requirements for environmental impact statements.

National Flood Insurance Program. See "Flood Hazard Management."

National Historic Preservation Act of 1966 (NHPA). See "Historical Resource Preservation."

National Register of Historic Places. See "Historical Resource Preservation."

Native Species. See "Landscaping Standards."

Natural or Existing Grade. See "Grading."

Natural Area. See "Trees."

Natural State. The condition existing prior to development or alteration of a site.

Nature Preserves, Habitat and Wetland Restoration. Natural resource and habitat areas that are managed and protected to preserve and/or restore and rehabilitate the value of the subject resources.

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).

Neighborhood. A planning area commonly identified as such in a community's planning documents, and by the individuals residing and working within the neighborhood. Documentation may include a map prepared for planning purposes, on which the names and boundaries of the neighborhood are shown.

Neighborhood Conservation Area (NCA). See “Historical Resource Preservation.”

Neighborhood Park. City- or county-owned land intended to serve the recreation needs of people living or working within one-half mile radius of the park.

New Construction. See “Flood Hazard Management.”

Night Club. A facility serving alcoholic beverages for on-site consumption, and providing entertainment, examples of which include live music and/or dancing, comedy, etc.

Noise. Any sound that is undesirable because it interferes with speech and hearing, or is intense enough to damage hearing, or is otherwise annoying. Noise, simply, is "unwanted sound."

1. Community Noise Equivalent Level (CNEL) A 24-hour energy equivalent level derived from a variety of single-noise events, with weighting factors of 5 and 10 dBA applied to the evening (7 PM to 10 PM) and nighttime (10 p.m. to 7 A.m.) periods, respectively, to allow for the greater sensitivity to noise during these hours.

2. dB, Decibel. A unit used to express the relative intensity of a sound as it is heard by the human ear.

3. dBA. The "A-weighted" scale for measuring sound in decibels; weighs or reduces the effects of low and high frequencies in order to simulate human hearing. Every increase of 10 dBA doubles the perceived loudness though the noise is actually ten times more intense.

4. Ldn. Day-Night Average Sound Level. The A-weighted average sound level for a given area (measured in decibels) during a 24-hour period with a 10 dB weighting applied to night-time sound levels. The Ldn is approximately numerically equal to the CNEL for most environmental settings.

5. Leq. The energy equivalent level, defined as the average sound level on the basis of sound energy (or sound pressure squared). The Leq is a "dosage" type measure and is the basis for the descriptors used in current standards, such as the 24-hour CNEL used by the State of California.

6. L10. A statistical descriptor indicating peak noise levels, i.e. the sound level exceeded 10 percent of the time. It is a commonly used descriptor of community noise, and has been used in Federal Highway Administration standards and the standards of some cities and counties.

7. Noise Attenuation Reduction of the level of a noise source using a substance, material, or surface, such as earth berms and/or solid concrete walls.

8. Noise Contour. A line connecting points of equal noise level as measured on the same scale. Noise levels greater than the 60 Ldn contour (measured in dBA) require noise attenuation in residential development.

Non-Attainment. The condition of not achieving a desired or required level of performance. Frequently used in reference to air quality. (See "Attainment.")

Nonconforming Parcel. A parcel that was legally created prior to the adoption of this Land Use Code or amendment, but does not comply with the current area, width, depth, or other applicable requirements of this Land Use Code.

Nonconforming Sign. See "Signs."

Nonconforming Structure. A structure that was legally constructed prior to the adoption or amendment of this Land Use Code, but does not comply with the current setback, height limit, and/or other applicable requirements of this Land Use 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 Code or amendment, but does not conform to the current Land Use Code requirements for allowable land uses within the applicable zoning district.

Non-Contributing Structure or Building. See "Historical Resource Preservation."

Non-Prime Agricultural Land. Non-prime agricultural land consists of property used for the production of food or fiber, with soils that qualify for rating as classes III through VII in the Soil Conservation Service land capability classifications.

Noteworthy Structures. See "Historical Resource Preservation."

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. For an affordable housing project, it is the area outside of the boundaries of the residential project.

Office. This Land Use 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 that are incidental and accessory to another business or sales activity that is the primary use.

2. Business/Service. Establishments providing direct services to consumers. Examples of these uses include employment agencies, insurance agent offices, real estate offices, travel agencies, utility company offices, etc. This use does not include "Bank, Financial Services," which are 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 "Truck or 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:

- 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. 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
- attorneys
- 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 organization
- financial management and investment counseling
- literary and talent agencies
- management and public relations services
- media postproduction services
- news services
- photographers and photography studios
- 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 of Historic Preservation (OHP). See “Historical Resource Preservation.”

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
- Flowers
- Newspapers and magazines
- Office supplies, stationery
- Photographic supplies and cameras

100-Year Flood. See "Flood Hazard Management."

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.

Open Space Land. Any parcel or area of land or water that is essentially unimproved and devoted to an open space use for the purposes of (1) the preservation of natural resources, (2) the managed production of resources, (3) outdoor recreation, or (4) public health and safety.

Ordinance. A law or regulation set forth and adopted by a governmental authority, usually a city or county.

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.

Organization, Organizational Entity. Any public or private corporation, political subdivision, partnership, firm, trust or estate or any other legal entity whatsoever, which is recognized by law.

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 Recreation Use. A privately or publicly owned or operated use providing facilities for outdoor recreation activities.

Outdoor Retail Sales and Activities. Permanent and mobile 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/equipment, and other uses where the business is not conducted entirely within a structure. Outdoor retail sales and activities shall comply with the standards for "Outdoor Displays and Sales" in Section 9.42.140.

Overlay. A land use designation on the General Plan Land Use Map, or a zoning designation on a zoning map, that modifies the basic underlying designation in some specific manner.

Overspray. See “Landscaping Standards.”

Owner. See “Affordable and Inclusionary Housing.”

P. Definitions, "P."

Parcel. See "Lot, or Parcel."

Parking Area, Public. An open area, excluding a street or other public way, used for the parking of automobiles and available to the public, whether for free or for compensation.

Parking Facility. Parking space or shelter for automobiles or other vehicles.

1. A garage is an attached or detached accessory structure, which is enclosed on at least three sides;

2. A carport is an attached or detached accessory structure, which is not enclosed on more than two sides;

3. A car deck is an unenclosed platform providing off-street parking spaces, normally constructed at the street level of a sloping lot.

Parking, Shared. A public or private parking area used jointly by two or more uses.

Park Land, Parkland. Land that is publicly owned or controlled for the purpose of providing parks, recreation, or open space for public use.

Parks and Playgrounds. 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.

Parkway Strip. A piece of land located between the rear of a curb and the front of a sidewalk, usually used for planting low ground cover and/or street trees, also known as “planter strip.”

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.

Performance Standards. Zoning regulations that permit uses based on a particular set of standards of operation rather than on particular type of use. Performance standards provide specific criteria limiting noise, air pollution, emissions, odors, vibration, dust, dirt, glare, heat, fire hazards, wastes, traffic impacts, and visual impact of a use.

Person. Any natural person, individual, corporation, or organizational entity, as further identified in the Arcata Municipal Code (AMC § 1100) and in the California Civil Code (Civil Code § 14), which is recognized in law as the subject of rights or duties.

Person with an Identification Card. See "Medical Marijuana."

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

Pet Shop. A store that sells household pets and pet supplies.

Pipeline, Utility Transmission or Distribution Line. Transportation facilities for the conveyance of water or commodities other than petroleum. Also includes pipeline surface and terminal facilities, including pump stations, bulk stations surge and storage tanks. Utility lines include 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 Office), or distribution substations.

Planned Development (PD). Development of land as a single unit by taking advantage of modern site planning techniques to result in a more efficient use of land and a better living environment than is otherwise possible through strict application of development standards. Planned developments allow for exceptions and deviations from standard zoning requirements in exchange for creative design and added amenities.

Planning Area. The area directly addressed by the general plan. A city's planning area typically encompasses the city limits, potentially annexable land within its sphere of influence, and surrounding lands which affect the City.

Planning Commission. The City of Arcata Planning Commission, appointed by the Arcata City Council in compliance with Government Code Section 65101. A body, usually having five or seven members, created by a city or county in compliance with California law which requires the assignment of the planning functions of the city or county to a planning department, planning commission, hearing officers, and/or the legislative body itself, as deemed appropriate by the legislative body.

Planning Permit. Authority granted by the City to use a specified site for a particular purpose. "Planning Permit" includes Use Permits, Minor Use Permits, Coastal Permits, Variances, Planned Development Permits, Emergency Permits, Design Review, Certificates of Occupancy and Zoning Clearances, as established by Article 7 (Planning Permit Procedures).

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."

Policy. A group of related actions or means that will be employed to achieve objectives.

Pollution, Non-Point. Sources for pollution that are less definable and usually cover broad areas of land, such as agricultural land with fertilizers that are carried from the land by runoff, or automobiles.

Pollution, Point. In reference to air or water quality, a discrete source from which pollution is generated before it enters receiving waters or air, such as a sewer outfall, a smokestack, or an industrial waste pipe.

Porous Mulch. See "Landscaping Standards."

Poverty Level. As used by the U.S. Census, families and unrelated individuals are classified as being above or below the poverty level based on a poverty index that provides a range of income cutoffs or "poverty thresholds" varying by size of family, number of children, and age of householder. The income cutoffs are updated each year to reflect the change in the Consumer Price Index.

Preservation. See "Historical Resource Preservation."

Preserve, n. An area in which beneficial uses in their present condition are protected; for example, a nature preserve or an agricultural preserve. (See "Agricultural Preserve")

Primary Caregiver. See "Medical Marijuana."

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.

Primary Zoning District. The zoning district applied to a site by the Zoning Map, to which an overlay zoning district may also be applied.

Prime Agricultural Land. Means any of the following, in compliance with Williamson Act Section 51201:

1. All land that qualifies for rating as Class I or Class II in the Soil Conservation Service land capability classifications.

2. Land that qualifies for a rating of 60 through 100 in the Storie Index Rating.

3. Land that supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.

4. Land planted with fruit- or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than $200 per acre.

5. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than $200 per acre for three of the previous five years.

Prime Farmland. Land which has the best combination of physical and chemical characteristics for the production of crops. Prime Farmland must have been used for the production of irrigated crops within the last three years. Prime Farmland does not include publicly-owned lands for which there is an adopted policy preventing agricultural use. (See "Prime Agricultural Land.")

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 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.

Private Road/Private Street. Privately owned (and usually privately maintained) motor vehicle access that is not dedicated as a public street. Typically the owner posts a sign indicating that the street is private property and limits traffic in some fashion. For density calculation purposes, some jurisdictions exclude private roads when establishing the total acreage of the site; however, aisles within and driveways serving private parking lots are not considered private roads.

Processing Facility. See "Recycling Facility."

Produce Stand. A temporary business established and operated for a specific time, selling fruits, vegetables, nuts, firewood and other agricultural produce.

Production of Food or Fiber. Any type of commercial agricultural operation that produces food or fiber products, including but not limited to all types of: irrigated field crop production (vegetables, fruits, grains, seed crops, etc.), dry farming operations (grain, etc.), orchards and vineyards, berries, etc.; and animal raising operations such as the raising of cattle, fowl or poultry, goats, sheep, swine, or other animals used for food or clothing products; but not including timber production.

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.

Public Buildings and Uses. Facilities owned and operated by the City, and/or State or Federal governments, or a local agency (e.g., a special district).

Public and Quasi-public Facilities. Institutional, academic, governmental and community service uses, either owned publicly or operated by non-profit organizations, including private hospitals and cemeteries.

Public Nuisance. Anything which is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and affects at the same time an entire community, neighborhood, household or any considerable number of persons although the extent of annoyance or damage inflicted upon an individual may be unequal.

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.

Public Services. See “Municipal Services.”

Public Trust Lands. See “Environmentally Sensitive Habitat Area (ESHA)”.

Q. Definitions, "Q."

Qualified Patient. See “Medical Marijuana.”

Qualifying Resident. A senior citizen or other person eligible to reside in senior citizen housing.

R. Definitions, "R."

Rear Yard. See "Yard."

Reclamation. The reuse of resources, usually those present in solid wastes or sewage.

Reconstruction. See "Historical Resource Preservation."

Recordation, County. See "Historical Resource Preservation."

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 (RV) Park. See "Lodging."

Recreational Use. The use of land by the public, with or without charge, for walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation.

Recycling Facility. This land use type includes a variety of facilities involved with the collection, sorting and processing of recyclable materials.

1. **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:

      (1) A mobile unit;

      (2) Bulk reverse vending machines or a grouping of reverse vending machines occupying more than 50 square feet; and

      (3) Kiosk-type units which may include permanent structures.

   c. Large collection facilities which occupy an area of more than 350 square feet and/or include permanent structures.

2. Mobile Recycling Unit. An automobile, truck, trailer, or van used for the collection of recyclable materials, carrying bins, boxes, or other containers.

3. 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.

4. 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 986. 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.

5. 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.

6. 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.

7. 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.

Regional. Pertaining to activities or economies at a scale greater than that of a single jurisdiction, and affecting a broad geographic area.

Regional Information Center. See "Historical Resource Preservation."

Rehabilitation. See "Historical Resource Preservation."

Religious Facility. A permanent facility operated by a religious organization exclusively for worship, or the promotion of religious activities, including accessory uses on the same site. Examples of these types of facilities include churches, mosques, synagogues, and temples. Examples of allowable accessory uses on the same site include living quarters for ministers and staff, facilities for child day care and religious instruction operated at the same time as religious services (where authorized by the same type of land use permit required for the religious facility itself). May also include fund-raising sales, bazaars, dinners, parties, or other indoor and outdoor events on the same site. Other facilities maintained by religious organizations, including full-time day care centers, full-time educational institutions, hospitals and other potentially related operations (for example, a recreational camp) are defined in this Chapter according to their respective activities. Does not include the temporary use of an approved public assembly facility (for example, a private meeting hall, community center, theater, or auditorium) by a congregation for religious meetings, which is instead defined under the type of meeting facility hosting the congregation.

Remedy a Violation. See "Flood Hazard Management."

Remodeling. See "Historical Resource Preservation."

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", or maintenance and repair activities that occur on the client's site, which are included under "Maintenance Service - Client Site Services."

Replacement Cost. The construction cost to replace an entire structure.

Research and Development Use. A use engaged in study, testing, design, analysis, and experimental development of products, processes, or services.

Residential. Land designated in the City or County General Plan and zoning ordinance for buildings consisting of dwelling units. May be improved, vacant, or unimproved. (See "Dwelling Unit.")

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)
- guest houses
- home satellite dishes and receiving antennas per 9.44.030 B
- 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.

Residential Care Facility. A single dwelling unit or multiple-unit facility licensed or supervised by a Federal, State, or local health/welfare agency that provides 24-hour non-medical 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.

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 Floor Area. The sum of the floor area for each of a residential structure's stories measured from the exterior limits of the faces of the structure. The residential floor area does not include: basements, attics, cellars, storage rooms accessible from the exterior of the structure, any floor space which is designated for the parking of motor vehicles, or covered or uncovered porches unless said area meets the Uniform Building Code (UBC) standards for habitable floor area. Note that certain spaces, such as bathrooms, closets, and storage rooms accessed from the interior of the structure which are not "habitable area" as defined by the UBC are considered "residential floor area" for the purpose of this Land Use Code.

Residential, Multiple Family. See "Multi-family housing".

Residential, Single-Family. See "Single family dwelling".

Residential Zoning District. Any of the residential zoning districts established by Section 9.12.020 (Zoning Map and Zoning Districts).

Resources, Non-Renewable. Refers to natural resources, such as fossil fuels and natural gas that, once used, cannot be replaced and used again.

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.

Restaurant, Fast-Food. Any retail establishment intended primarily to provide short-order food services for on-site dining and/or take-out, including self-serve restaurants (excluding cafeterias where food is consumed on the premises), drive-in restaurants, and formula restaurants. Also see "Restaurant, Formula".

Restaurant, Formula. A restaurant that is required by contractual or other arrangement to offer any of the following: standardized menus, ingredients, food preparation, décor, uniforms, architecture, signs or similar standardized features and which causes it to be substantially identical to more than 11 other restaurants regardless of ownership or location.

Restore. To renew, rebuild, or reconstruct to a former state.

Restrict. To check, bound, or decrease the range, scope, or incidence of a particular condition.

Retention Basin/Retention Pond. See "Detention Basin/Detention Pond."

Retrofit. To add materials and/or devices to an existing building or system to improve its operation, safety, or efficiency. Buildings have been retrofitted to use solar energy and to strengthen their ability to withstand earthquakes, for example.

Reverse Vending Machine. See "Recycling Facility."

Review Authority. The individual or official City body (the Community Development Director, Zoning Administrator, Environmental Coordinator, Planning Commission, Historic and Design Review Authority, or City Council) identified by this Land Use Code as having the responsibility and authority to review, and approve or disapprove the permit applications described in Article 7 (Planning Permit Procedures).

Rezoning. An amendment to the map and/or text of a zoning ordinance to effect a change in the nature, density, or intensity of uses allowed in a zoning district and/or on a designated parcel or land area.

Richter Scale. A measure of the size or energy release of an earthquake at its source. The scale is logarithmic; the wave amplitude of each number on the scale is ten times greater than that of the previous whole number.

Rideshare. A travel mode other than driving alone, such as buses, rail transit, carpools, and vanpools.

Ridgeline. A line connecting the highest points along a ridge and separating drainage basins or small-scale drainage systems from one another.

Right-of-Way. A strip of land occupied or intended to be occupied by certain transportation and public use facilities, such as roads, railroads, and utility lines.

Riparian Corridor. See "Environmentally Sensitive Habitat Area (ESHA)".

Riparian Lands. See "Environmentally Sensitive Habitat Area (ESHA)".

Riverine. See "Flood Hazard Management."

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."

Runoff. See "Landscaping Standards."

S. Definitions, "S."

Sand Dunes. See "Flood Hazard Management."

Sanitary Landfill. The controlled placement of refuse within a limited area, followed by compaction and covering with a suitable thickness of earth and other containment material.

Sanitary Sewer. A system of subterranean conduits that carries refuse liquids or waste matter to a plant where the sewage is treated, as contrasted with storm drainage systems (that carry surface water) and septic tanks or leech fields (that hold refuse liquids and waste matter on-site). (See "Combined Sewer" and "Septic System.")

Scenic Highway Corridor. The area outside a highway right-of-way that is generally visible to persons traveling on the highway.

Scenic Highway/Scenic Route. A highway, road, drive, or street that, in addition to its transportation function, provides opportunities for the enjoyment of natural and man-made scenic resources and access or direct views to areas or scenes of exceptional beauty or historic or cultural interest. The aesthetic values of scenic routes often are protected and enhanced by regulations governing the development of property or the placement of outdoor advertising. Until the mid-1980s, general plans in California were required to include a Scenic Highways element.

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 "Studios - Art, Dance, Martial Arts, Music, etc." for smaller-scale facilities offering specialized instruction.

Scrap and Dismantling Yards. See "Recycling Facility."

Second Hand Store. A retail store that buys and sells 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. A second permanent dwelling that is accessory to a primary dwelling on the same site. A second unit 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.

Secretary of the Interior's Standards. See "Historical Resource Preservation."

Sediment. See "Grading."

Sediment Detention Basin. See "Grading."

Seiche. An earthquake-generated wave in an enclosed body of water such as a lake, reservoir, or bay.

Seismic. Caused by or subject to earthquakes or earth vibrations.

Seniors. Persons of age 62-years and older.

Senior Housing. Typically one- and two-bedroom apartments or condominiums designed to meet the needs of persons 62 years of age and older or, if more than 150 units, persons 55 years of age and older, and restricted to occupancy by them. (See also, "Congregate Care.")

Septic System. A sewage-treatment system that includes a settling tank through which liquid sewage flows and in which solid sewage settles and is decomposed by bacteria in the absence of oxygen. Septic systems are often used for individual-home waste disposal where an urban sewer system is not available. (See "Sanitary Sewer.")

Service Station. A retail business selling vehicle fuels and related products; a card lock station is also included within this definition. Where allowed by Article 2 (Zoning Districts and Allowable Land Uses), a service station may also include: a convenience store; a restaurant, café, or coffee shop; minor maintenance and repair facility; tow truck operation; vehicle or trailer rentals; and fuel dealer sales.

Setback. The distance by which a structure, parking area or other development feature must be separated from a lot line, Environmentally Sensitive Habitat Area (ESHA), other structure or development feature, or street centerline. See also "Yard," and Section 9.30.090 (Setback Regulations and Exceptions).

Settlement. 1. The drop in elevation of a ground surface caused by settling or compacting. 2. The gradual downward movement of an engineered structure due to compaction. Differential settlement is uneven settlement, where one part of a structure settles more or at a different rate than another part.

Sex-Oriented Business. A business based upon materials or performances that depict, describe, or relate to sexual anatomical areas or activities. Sex oriented business shall not include the following: any activity conducted in private, including viewing NC-17-rated material in a private motel room through use of a satellite dish or other technology; creation and display of life or figure art in artist studios and artisan shops; selling or renting NC-17rated movies, reading materials or other merchandise within a general video store, bookstore, or other retail store; and occasionally showing NC-17-rated movies or plays within a general movie or live theater.

Shall. That which is mandatory; an unequivocal direction.

Shared Living. The occupancy of a dwelling unit by persons of more than one family in order to reduce housing expenses and provide social contact, mutual support, and assistance. Shared living facilities serving six or fewer persons are permitted in all residential districts by '1566.3 of the California Health and Safety Code.

Shopping Center. A primarily retail commercial site with three or more separate businesses sharing common pedestrian and parking areas.

Short Form [Erosion and Sediment Control Plan]. See "Grading."

Should. Signifies a directive to be honored if at all possible; a less rigid directive than "shall," to be honored in the absence of compelling or contravening considerations.

Side Yard. See "Yard."

Sign. A structure, device, figure, display, message placard, or other contrivance excluding merchandise display, or any part thereof, located outdoors or indoors, that is designed, constructed, intended, or used to provide information, convey an idea, 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 otherwise convey information, advertise or identify any business or product. Types of signs include the following.

1. Abandoned Sign. A sign that no longer advertises a business, lessor, owner, product, service or activity on the premises where the sign is displayed.

2. Animated or Moving Sign. A sign which uses movement, lighting, or special materials to depict action or create a special effect to imitate movement.

3. Awning Sign. A sign copy or logo attached to or painted on an awning.

4. 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.

5. Bench Sign. Copy painted on a portion of a bench.

6. Cabinet Sign (Can Sign). A sign which contains all the text and/or logo symbols within a single enclosed cabinet and may or may not be internally illuminated.

7. Changeable Copy Sign. A sign designed to allow the changing of copy through manual, mechanical, or electrical means including time and temperature.

8. Directional Sign. A sign that is designed and erected solely for the purposes of directing vehicular and/or pedestrian traffic within a project.

9. Directory Sign. A sign for listing the tenants and their suite numbers of a multiple tenant structure or center.

10. Double-Faced Sign. A sign constructed to display its message on the outer surfaces of two identical and/or opposite parallel planes.

11. 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.

12. Flashing Sign. A sign that contains an intermittent or sequential flashing light source.

13. 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.

14. Prohibited 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, if the amortization period for the display provided by the ordinance rendering 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 more than 50 percent of its current replacement cost;
- 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 10 days have elapsed since the occurrence of the event.

15. Indirectly Illuminated Sign. A sign whose light source is external to the sign and which casts its light onto the sign from some distance.

16. 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.

17. 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.

18. Monument Sign. An independent, freestanding structure supported on the ground having a solid base as opposed to being supported by poles or open braces.

19. Multi-Tenant Sign. An identification sign for a commercial site with multiple tenants, displaying the names of each tenant on the site.

20. Nonconforming Sign. A permanent or temporary advertising structure or sign which 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 Land Use Code.

21. Obscene Sign. A sign that is offensive or repulsive to the senses, or is indecent or lewd.

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 which is not located, sold, or manufactured on the same premise as the sign or which identifies a use, service, or product by a brand name which, although sold or manufactured on the premise, does not constitute the 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 Sign. A sign designed for the purpose of advertising support of or opposition to a candidate or proposition for a public election.

26. Pole/Pylon Sign. An elevated freestanding sign, typically supported by one or two poles or columns.

27. Portable Sidewalk Sign. An "a-frame" or "sandwich board" sign.

28. Portable Sign. A sign that is not permanently affixed to a structure or the ground.

29. Projecting Sign. A sign other than a wall sign suspending from, or supported by, a structure and projecting outward.

30. 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.

31. Roof Sign. A sign constructed upon or over a roof, or placed so as to extend above the edge of the roof.

32. 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.

33. Vehicle Sign. A sign attached to or suspended from a boat, vehicle, or other movable object that is parked within a public right-of-way, or located on private property but 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 a vehicle.

34. 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.

35. 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. The entire area within a perimeter defined by a continuous line composed of right angles using no more than four lines which enclose the extreme limits of lettering, logo, trademark, or other graphic representation.

Sign Height. The vertical distance from the uppermost point used in measuring the area of a sign to the average grade immediately below the sign, including its base or the top of the nearest curb of the street on which the sign fronts, whichever measurement is the greatest.

Significance. See "Historical Resource Preservation."

Significant Architectural Features. See "Historical Resource Preservation."

Significant Effect. A beneficial or detrimental impact on the environment. May include, but is not limited to, significant changes in an area's air, water, and land resources.

Siltation. (1) The accumulating deposition of eroded material. (2) The gradual filling in of streams and other bodies of water with sand, silt, and clay.

Silviculture. See "Trees."

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, parking, pavement and driveways. Structure or building coverage includes the primary structure, all accessory structures (e.g., carports, garages, patio covers, storage sheds, trash dumpster enclosures, etc.) and any covered feature. Structure/building coverage is measured from exterior wall to exterior wall. Planted parking strips and pervious pavers are not counted as site coverage.

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.

Solar Access. The following terms and phrases are defined for the purposes of Chapter 9.56 (Solar Siting and Solar Access).

1. Adequate Solar Access. Building orientation such that the south sloped roof and wall down to ground level of the principal building on the lot, shall not be shaded more than 10 percent between the hours of 10 a.m. and 2 p.m. at any time throughout the year.

2. Solar Easement. The right of receiving sunlight across the real property of another for any solar energy system.

3. Solar Energy System. A solar energy system includes the following:

   a. A solar collector or other solar energy device with its primary purpose to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.

   b. A structural design feature of a building, the primary purpose of which is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

4. Burdened Property. Property for which development restrictions are placed or proposed, in order to protect solar access to benefitted property.

5. Benefited Property. Property for which solar access protection is granted or proposed.

6. Due South. The direction of the south terrestrial pole.

7. Solar System, Active. A system using a mechanical device, such as a pump or a fan, and energy in addition to solar energy to transport a conductive medium (air or water) between a solar collector and the interior of a building for the purpose of heating or cooling.

8. Solar System, Passive. A system that uses direct heat transfer from thermal mass instead of mechanical power to distribute collected heat. Passive systems rely on building design and materials to collect and store heat and to create natural ventilation for cooling.

Solid Waste. Any unwanted or discarded material that is not a liquid or gas. Includes organic wastes, paper products, metals, glass, plastics, cloth, brick, rock, soil, leather, rubber, yard wastes, and wood, but does not include sewage and hazardous materials. Organic wastes and paper products comprise about 75% of typical urban solid waste.

Solid Waste Transfer Station. A facility for the temporary storage of municipal refuse prior to its transport to a landfill or other terminal disposal or recycling facility.

Special Flood Hazard Area (SFHA). See "Flood Hazard Management."

Sphere of Influence. The probable physical boundaries and service area of a local agency, as determined by the Local Agency Formation Commission (LAFCO) of the County.

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)

Stabilization. See "Historical Resource Preservation."

Standards. A rule or measure establishing a level of quality or quantity in a General Plan that must be complied with or satisfied. Examples of Standards might include: the number of acres of parkland per 1,000 population that a community will attempt to acquire and improve; the land use density for a designated land use category; or the traffic Level of Service (LOS) that a General Plan hopes to attain. Also see "Development Standards".

Start of Construction. See "Flood Hazard Management."

State Historical Building Code (SHBC). See "Historical Resource Preservation."

Stem Basal Area. See "Trees."

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 - Business Records. A commercial storage facility specializing in the storage of business records.

Storage - Outdoor. An area not within a building that is proposed or used for the storage of building materials, other supplies, equipment, or other materials, either as the primary use of a parcel or as storage accessory to another use.

Storage - Personal Storage Facility (Mini-storage). Structures containing generally small, individual, compartmentalized stalls or lockers rented as individual storage spaces and characterized by low parking demand.

Storage - Storage Yard. The storage of various materials outside of a structure other than fencing, either as an accessory or primary use.

Storage - Warehouse, Indoor Storage. Facilities for the storage of furniture, household goods, or other commercial goods of any nature provided by moving companies. 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 "Truck or Freight Terminal").

Storie Index. A numerical system (0-100) rating the degree to which a particular soil can grow plants or produce crops, based on four factors: soil profile, surface texture, slope, and soil limitations. (See "Prime Agricultural Land.")

Storm Water Runoff. See "Grading."

Stream. See "Environmentally Sensitive Habitat Area (ESHA)".

Stream Corridor. See "Environmentally Sensitive Habitat Area (ESHA)".

Stream or Creek Bank. See "Environmentally Sensitive Habitat Area (ESHA)".

Street. A thoroughfare 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 glossary. A public street is one that has been accepted by the City which has been constructed to City standards. (See also "Private Road/Private Street.")

Street Furniture. Those features associated with a street that are intended to enhance that street's physical character and use by pedestrians, such as benches, trash receptacles, kiosks, lights, newspaper racks.

Street Tree Plan. A comprehensive plan for all trees on public streets that sets goals for solar access, and standards for species selection, maintenance, and replacement criteria, and for planting trees in patterns that will define neighborhood character while avoiding monotony or maintenance problems.

Street Trees. See "Trees."

Streets, Local. See " Streets, Minor."

Streets, Major. The transportation network that includes a hierarchy of freeways, arterials, and collectors to service through traffic.

Streets, Minor. Local streets not shown on the Circulation Plan, Map, or Diagram, whose primary intended purpose is to provide access to fronting properties.

Streets, Through. Streets that extend continuously between other major streets in the community.

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 Code, the term "structure" includes "signs" and "buildings," but does not include swimming pools, fences, walls used as fences, pens or corrals.

Studio - Art, Dance, Martial Arts, Music, etc. Small scale facilities, typically accommodating no more than three groups of students at a time. 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.

Stumpage. See "Trees."

Subdivision. The division, by any subdivider, of any unit or portion of land shown on the latest equalized Humboldt 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 915: a condominium project; a community apartment project; or the conversion of five or more existing dwelling units to a stock cooperative.

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. This act vests in local legislative bodies the regulation and control of the design and improvement of subdivisions, including the requirement for tentative and final maps. (See also "Subdivision.")

Subsidence. The sudden sinking or gradual downward settling and compaction of soil and other surface material with little or no horizontal motion. Subsidence may be caused by a variety of human and natural activity, including earthquakes. (See "Settlement.")

Subsidize. See "Affordable and Inclusionary Housing."

Substandard Housing. Residential dwellings that, because of their physical condition, do not provide safe and sanitary housing.

Substantial. Considerable in importance, value, degree, or amount.

Substantial Improvement. See "Flood Hazard Management."

Substantial Rehabilitation. See "Affordable and Inclusionary Housing."

Surface Mining Operations. All or any part of the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine.

Sustainability. Community use of natural resources in a way that does not jeopardize the ability of future generations to live and prosper.

Sustainable Development. Development that maintains or enhances economic opportunity and community wellbeing while protecting and restoring the natural environment upon which people and economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs. (Source: Minnesota State Legislature.)

Swale. See "Grading."

T. Definitions, "T."

Taking. A real estate term traditionally used to mean acquisition by eminent domain but broadened by the U.S. Supreme Court to mean any government action that denies all economically viable use of property.

Target Areas. Specifically designated sections of the community where loans and grants are made to bring about a specific outcome, such as the rehabilitation of housing affordable by very low- and low-income households.

Tax Increment. Additional tax revenues that result from increases in property values within a redevelopment area. State law permits the tax increment to be earmarked for redevelopment purposes but requires at least 20% to be used to increase and improve the community's supply of very low- and low-income housing.

Telecommuting. An arrangement in which a worker is at home or in a location other than the primary place of work, and communicates with the workplace and conducts work via wireless or telephone lines, using modems, fax machines, or other electronic devices in conjunction with computers.

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.

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.

Terrace. See "Grading."

Theater, Auditorium. An indoor facility for public assembly and group entertainment, other than sporting events. Examples of these facilities include:

- civic theaters, and facilities for "live" theater and concerts
- movie theaters
- similar public assembly facilities
- See also "Sports and Entertainment Assembly."

Tidelands. Land subject to the ebb and flow of tides.

Top of Bank. See "Environmentally Sensitive Habitat Area (ESHA)".

Topography. Configuration of a surface, including its relief and the position of natural and man-made features.

Topping. See "Trees."

Tourism. The business of providing services for persons traveling for pleasure, tourism contributes to the vitality of the community by providing revenue to local business. Tourism can be measured through changes in the transient occupancy tax, or restaurant sales.

Townhouse; Townhome. A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common and fire-resistant walls.

Traffic Model. A mathematical representation of traffic movement within an area or region based on observed relationships between the kind and intensity of development in specific areas. Many traffic models operate on the theory that trips are produced by persons living in residential areas and are attracted by various non-residential land uses. (See "Trip.")

Transit. The conveyance of persons or goods from one place to another by means of a local, public transportation system.

Transit, Public. A system of regularly-scheduled buses and/or trains available to the public on a fee-per-ride basis. Also called "Mass Transit."

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.

Transitional Housing. Shelter provided to the homeless for an extended period, often as long as 24 months, and generally integrated with other social services and counseling programs to assist in the transition to self-sufficiency through the acquisition of stable income and permanent housing. (Also see "Emergency Shelter.")

Trees. Types of trees and related definitions include the following:

1. Arborist. 1) A person currently certified by the Western Chapter of the International Society of Arboriculture as an expert on the care of trees; 2) a consulting arborist who satisfies the requirements of the American Society of Consulting Arborists; or 3) other qualified professionals who the Director determines have gained through experience the qualifications to identify, remove, or replace trees.

2. Diameter of a Tree. Trunk diameter measured at 4.5 feet above the ground (also known as "Diameter at Breast Height," or "DBH).

3. Diseased Tree. A tree afflicted by, but not limited to, any of the following: insect infestation, heart rot, exfoliation, slime flux, crown rot, leaf scorch, root fungus, structural defects or weaknesses.

4. Drip line. A line that may be drawn on the ground around a tree directly under its outermost branch tips and which identifies that location where rainwater tends to drip from the trees. When depicted on a map, the drip line will appear as an irregular shaped circle that follows the contour of the tree's branches as seen from overhead.

5. Forest Stand. A contiguous group of trees sufficiently uniform in species composition, arrangement of age classes and condition to be a distinguishable, homogeneous unit.

6. Hazardous Tree. A tree with structural defects likely to cause failure of all or part of the tree, which could strike a "target". A target can be a vehicle, building, or place where people gather such as a park bench, picnic table, street, or backyard. Hazardous defects are visible signs that the tree is failing. There are seven main types of tree defects: dead wood, cracks, weak branch unions, decay, cankers, root problems, and poor tree architecture. A tree with defects is not hazardous, however, unless some portion of it is within striking distance of a target.

7. Landmark Trees. Trees whose size, visual impact, or association with a historically significant structure or event have led the City or County to designate them as landmarks.

8. Natural Area. An area where no grading or development is permitted. For new and undeveloped lots subject to hillside development standards, a minimum of 50 percent of the area of each lot shall be designated as "natural area," and all areas with slopes greater than 25 percent shall be included in the "natural area."

9. Silviculture. The art, science, and practice of establishing, tending and reproducing forest stands of desired characteristics. It is based on knowledge of species characteristics and environmental requirements.

10. Stem Basal Area. The cross section area of the stem or stems of a plant or of all plants in a stand, generally expressed as square units per unit area. Tree basal is used to determine percent stocking. The cross section area of a tree stem in square feet commonly measured at breast height (4.5 feet above ground) and inclusive of bark, usually computed by using d.b.h. or tallied through the use of basal area factor angle gauge.

11. Street Trees. Trees strategically planted usually in parkway strips, medians, or along streets to enhance the visual quality of a street.

12. Stumpage. The value or volume of a tree or group of trees as they stand uncut in the woods (on the stump).

13. Topping. Cutting off the top section of a standing tree to the trunk. Topping is an injurious practice.

14. Trimming. The cutting of or removal of any limbs or branches of trees which will not seriously impair the health of trees. For the purposes of this code, the definition of trim shall not apply to any tree being grown as an orchard tree or other fruit or non-indigenous ornamental tree for which trimming and pruning are considered ordinary horticultural practices.

Trip. A one-way journey that proceeds from an origin to a destination via a single mode of transportation; the smallest unit of movement considered in transportation studies. Each trip has one "production end," (or origin-often from home, but not always), and one "attraction end," (destination). (See "Traffic Model.")

Trip Generation. The dynamics that account for people making trips in automobiles or by means of public transportation. Trip generation is the basis for estimating the level of use for a transportation system and the impact of additional development or transportation facilities on an existing, local transportation system. Trip generations of households are correlated with destinations that attract household members for specific purposes.

Truck Route. A path of circulation required for all vehicles exceeding set weight or axle limits, a truck route follows major arterials through commercial or industrial areas and avoids sensitive areas.

Truck or 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
- joint terminal and service facilities
- overnight mail processing facilities
- packing, crating, inspection and weighing services
- postal service bulk mailing distribution centers
- transportation arrangement services
- trucking facilities, including transfer and storage

Tsunami. A large ocean wave generated by an earthquake in or near the ocean.

U. Definitions, "U."

Undevelopable. Specific areas where topographic, geologic, and/or surficial soil conditions indicate a significant danger to future occupants and a liability to the City or County are designated as “undevelopable” by the City or County.

Uniform Building Code (UBC). A national, standard building code that sets forth minimum standards for construction.

Uniform Housing Code (UHC). State housing regulations governing the condition of habitable structures with regard to health and safety standards, and which provide for the conservation and rehabilitation of housing in accordance with the Uniform Building Code (UBC).

Urban. Of, relating to, characteristic of, or constituting a city. Urban areas are generally characterized by moderate and higher density residential development (i.e., three or more dwelling units per acre), commercial development, and industrial development, and the availability of public services required for that development, specifically central water and sewer, an extensive road network, public transit, and other such services (e.g., safety and emergency response). Development not providing such services may be “non-urban” or “rural.” (See “Urban Land Use.”) CEQA defines “urbanized area” as an area that has a population density of at least 1,000 persons per square mile - (Public Resources Code Section 21080.14(b)).

Urban Design. The attempt to give form, in terms of both beauty and function, to selected urban areas or to whole cities. Urban design is concerned with the location, mass, and design of various urban components and combines elements of urban planning, architecture, and landscape architecture.

Urban Growth Boundary. An officially adopted and mapped line dividing land to be developed from land to be protected for natural or rural uses. Urban growth boundaries are regulatory tools, often designated for long periods of time (20 or more years) to provide greater certainty for both development and conservation goals.

Urban Land Use. Residential, commercial, or industrial land use in areas where urban services are available.

Urban Open Space. The absence of buildings or development, usually in well-defined volumes, within an urban environment.

Urban Services Boundary. A boundary, sometimes parcel-specific, located to mark the outer limit beyond which urban development will not be allowed. It has the aim of discouraging urban sprawl by containing urban development during a specified period, and its location may be modified over time.

Urban Service Area. (1) An area in which urban services will be provided and outside of which such services will not be extended. (2) Developed, undeveloped, or agricultural land, either incorporated or unincorporated, within the sphere of influence of a city, which is served or will be served during the first five years of an adopted capital improvement program by urban facilities, utilities, and services. The boundary around an urban service area is called the "urban service area boundary" and is to be developed in cooperation with a city and adopted by a Local Agency Formation Commission (LAFCO).

Urban Services. Utilities (such as water, gas, electricity, and sewer) and public services (such as police, fire, schools, parks, and recreation) provided to an urbanized or urbanizing area.

Urban Sprawl. Haphazard growth or outward extension of a city resulting from uncontrolled or poorly managed development.

Use. See "Land Use."

Use, Primary. See "Primary Use."

Utility Corridors. Rights-of-way or easements for utility lines on either publicly or privately owned property. (See "Right-of-Way" or "Easement.")

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 land use permit requirements by Government Code Section 53091:

- 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."

Vacation Rental. See “Lodging.”

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, other body work, and painting services.

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; and tire recapping and retreading within an enclosed structure.

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"); service stations, which are separately defined; or dismantling yards, which are included under "Recycling - Scrap and Dismantling Yards."

Vehicle Storage. A service facility for the long-term storage of operative cars, trucks, buses, recreational vehicles, and other motor vehicles, for clients. Does not include dismantling yards (classified in "Recycling - Scrap and Dismantling Yards").

Very Low Income Household. See “Affordable and Inclusionary Housing.”

Veterinary Clinics, Animal Hospitals. Office and indoor medical treatment facilities used by veterinarians, including large and small animal veterinary clinics, and animal hospitals. Does not include kennels and animal boarding, which are separately defined.

View Corridor. The line of sight-identified as to height, width, and distance-of an observer looking toward an object of significance to the community (e.g., ridgeline, river, historic building, etc.); the route that directs the viewer’s attention.

Viewshed. The area within view from a defined observation point.

Violation. See “Flood Hazard Management.”

W. Definitions, "W."

Warehouse. See "Storage - Warehouse, Indoor Storage."

Warehouse Retail. A retail store 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. Sites and buildings are usually large and industrial in character. Patrons may be required to pay membership fees.

Warehousing Use. A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive.

Watercourse. See “Environmentally Sensitive Habitat Area (ESHA)”.

Water Feature. See “Landscaping Standards.”

Watershed. See “Environmentally Sensitive Habitat Area (ESHA)”.

Wetland. See “Environmentally Sensitive Habitat Area (ESHA)”.

Wetland Buffer Area. See “Environmentally Sensitive Habitat Area (ESHA)”.

Wetland Delineation. See “Environmentally Sensitive Habitat Area (ESHA)”.

Wetland Setback. See “Environmentally Sensitive Habitat Area (ESHA)”.

Wholesaling and Distribution. Establishments 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 e-commerce retail establishments.

Wildlife. Animals or plants existing in their natural habitat.

Wildlife Refuge. An area maintained in a natural state for the preservation of both animal and plant life.

Williamson Act. The term "Williamson Act" means California Government Code Section 51200 et seq., as they may be amended from time to time. Known formally as the California Land Conservation Act of 1965, it was designed as an incentive to retain prime agricultural land and open space in agricultural use, thereby slowing its conversion to urban and suburban development. The program entails a ten-year contract between the City or County and an owner of land whereby the land is taxed on the basis of its agricultural use rather than its market value. The land becomes subject to certain enforceable restrictions, and certain conditions need to be met prior to approval of an agreement.

Windmill. A tower and propeller assembly used to transform wind energy into mechanical energy for generating electricity or pumping water.

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.

Woodlands. Lands covered with woods or trees.

X. Definitions, "X."

Xeriscaping. The environmental site design and consideration of drought-resistant plants that support water efficient landscaping, thereby promoting the concept of water conservation in the design of a project.

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 Code. See also “Setback,” and Section 9.30.090 (Setback Regulations 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.

Zone, Combining. A special purpose zone that is superimposed over the regular zoning map. Combining zones are used for a variety of purposes, such as, flood plain, wetlands protection, or historic designation. Also called "overlay zone."

Zone, Interim. A zoning designation that temporarily reduces or freezes allowable development in an area until a permanent classification can be fixed; generally assigned during General Plan preparation to provide a basis for permanent zoning.

Zoning. The division of a city or county by legislative regulations into areas, or zones, that specify allowable uses for real property and size restrictions for buildings within these areas; a program that implements policies of the General Plan.

Zoning Administrator. The City of Arcata Community Development Director, or designee of the Director.

Zoning District. Any of the residential, commercial, public, or overlay districts established by Article 2 (Zoning Districts and Allowable Land Uses), 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.). A portion of the territory of a city or county within which uniform zoning regulations and requirements apply; a zone.

Zoning Map. Government Code Section 65851 permits a legislative body to divide a county, a city, or portions thereof, into zones of the number, shape, and area it deems best suited to carry out the purposes of the zoning ordinance. These zones are delineated on a map or maps, called the Zoning Map.