

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

EXHIBIT 2

SUGGESTED MODIFICATIONS TO IMPLEMENTAION
PLAN (BOOK FORMAT) (547 PAGES)

CITY OF ARCATA

COASTAL LAND USE CODE



Municipal Code - Title 9C

OCTOBER 2008

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Table of Contents

ARTICLE 1 Land Use Code Applicability

Chapter 9.10 - Purpose and Applicability of Land Use Code	1-3
9.10.010 - Purposes of Land Use Code	1-3
9.10.020 - Authority, Relationship to General Plan and Local Coastal Program	1-3
9.10.030 - Responsibility for Administration	1-4
9.10.040 - Applicability of the Land Use Code.....	1-5
9.10.050 - Rules of Interpretation	1-6
Chapter 9.12 – Zoning Map.....	1-9
9.12.010 - Purpose	1-9
9.12.020 - Zoning Map and Zoning Districts.....	1-9
9.12.030 - Land Use Plan Map.....	1-11

ARTICLE 2 Zoning Districts & Allowable Land Uses

Chapter 9.20 - Development and Land Use Approval Requirements	2-3
9.20.010 - Purpose	2-3
9.20.020 - General Requirements for Development and New Land Uses	2-3
9.20.030 - Allowable Land Uses and Permit Requirements	2-4
9.20.040 - Exemptions from Planning Permit Requirements	2-6
Chapter 9.22 - Agricultural and Resource Zoning Districts.....	2-9
9.22.010 - Purpose	2-9
9.22.020 - Purposes of the Agricultural and Resource Zoning Districts	2-9
9.22.030 - Agricultural and Resource District Allowable Land Uses.....	2-10
9.22.040 - Agricultural and Resource District Parcel and Density Standards	2-13
9.22.050 - Agricultural and Resource District Site Planning and Building Standards.....	2-13
9.22.060 - Agricultural and Resource District Land Use Limitations	2-15
9.22.070 - Agricultural and Resource Special Considerations	2-16
Chapter 9.24 - Residential Zoning Districts	2-17
9.24.010 - Purpose	2-17
9.24.020 - Purposes of the Residential Zoning Districts.....	2-17
9.24.030 - Residential District Allowable Land Uses	2-18
9.24.040 - Residential District Parcel and Density Standards	2-21
9.24.050 - Residential District Site Planning and Building Standards	2-21
9.24.060 - Residential District Land Use Limitations	2-26
9.24.070 - Residential Special Considerations.....	2-27
Chapter 9.26 - Commercial, Industrial, and Public Facility Zoning Districts	2-29
9.26.010 - Purpose	2-29
9.26.020 - Purposes of Commercial, Industrial, and Public Facility Zoning Districts.....	2-29
9.26.030 - Commercial, Industrial, and Public Facility District Allowable Land Uses	2-30
9.26.040 - Commercial, Industrial, and Public Facility District Parcel and Density Standards	2-36
9.26.050 - Commercial, Industrial, and Public Facility District Site Planning and Building Standards	2-36
9.26.060 - Commercial, Industrial, and Public Facility District Land Use Limitations	2-44
9.26.070 - Commercial, Industrial, and Public Facility Special Considerations.....	2-45

Chapter 9.28 - Combining Zones 2-47

- 9.28.010 - Purpose 2-47
- 9.28.020 - Applicability of Combining Zones 2-47
- 9.28.030 - Coastal Zone (:CZ) Combining Zone 2-48
- 9.28.040 - Historic Landmark (:HL) Combining Zone 2-48
- 9.28.050 - Natural Hazards (:NH) Combining Zone..... 2-49
- 9.28.060 - Neighborhood Conservation Area (:NCA) Combining Zone 2-51
- 9.28.070 - Planned Development (:PD) Combining Zone 2-52
- 9.28.080 - Plaza Area (:PA) Combining Zone 2-53
- 9.28.090 - Special Considerations (:SC) Combining Zone 2-54
- 9.28.100 - Wetland Protection (:WP) and Stream Protection (:SP) Combining Zones..... 2-55

ARTICLE 3 Site Planning and Project Design Standards

Chapter 9.30 - Standards for all Development and Land Uses 3-3

- 9.30.010 - Purpose 3-3
- 9.30.020 - Applicability 3-3
- 9.30.030 - Fences, Walls, and Screening..... 3-4
- 9.30.040 - Height Limits and Exceptions 3-6
- 9.30.050 - Noise Standards 3-8
- 9.30.060 - Site Coverage Exception..... 3-12
- 9.30.070 - Outdoor Lighting 3-13
- 9.30.080 - Performance Standards 3-13
- 9.30.090 - Setback Requirements and Exceptions..... 3-15
- 9.30.100 - Solid Waste/Recyclable Materials Storage..... 3-21

Chapter 9.31 - Density Bonuses..... 3-23

- 9.31.010 - Purpose 3-23
- 9.31.020 - Eligibility for Bonus, Incentives or Concessions 3-23
- 9.31.030 - Allowed Density Bonuses..... 3-24
- 9.31.040 - Allowed Incentives or Concessions..... 3-26
- 9.31.060 - Bonus and Incentives for Housing with Child Care Facilities 3-28
- 9.31.070 - Continued Availability 3-29
- 9.31.080 - Location and Type of Designated Units 3-30
- 9.31.090 - Processing of Bonus Requests 3-30
- 9.31.100 - Control of Resale..... 3-30
- 9.31.110 - Judicial Relief, Waiver of Standards 3-31

Chapter 9.32 - Affordable Housing Requirements..... 3-33

- 9.32.010 - Purpose and Intent..... 3-33
- 9.32.020 - Definitions 3-33
- 9.32.030 - Inclusionary Housing Requirement 3-33
- 9.32.040 - Standards for Inclusionary Units..... 3-35
- 9.32.050 - Incentives, Concession, Assistance, and Subsidies..... 3-36
- 9.32.070 - Alternatives to Inclusionary Units 3-39
- 9.32.080 - Term of Affordability for Rental Inclusionary Units - Rent Costs 3-40
- 9.32.090 - Term of Affordability and Resale of For-Sale Units 3-41
- 9.32.100 - Income, Occupancy, Hazard Insurance, and Maintenance Requirement 3-42
- 9.32.110 - Administration of Inclusionary Units 3-43
- 9.32.120 - Administrative Fees 3-46
- 9.32.130 - Takings Determination 3-46
- 9.32.140 - Enforcement and Penalties 3-47

Chapter 9.34 - Landscaping Standards 3-49
 9.34.010 - Purpose 3-49
 9.34.020 - Applicability 3-49
 9.34.030 - Definitions 3-50
 9.34.040 - Landscape and Irrigation Plans 3-50
 9.34.050 - Landscape Location Requirements 3-50
 9.34.060 - Landscape Standards 3-52
 9.34.070 - Maintenance of Landscape Areas 3-54

Chapter 9.36 - Parking and Loading 3-55
 9.36.010 - Purpose 3-55
 9.36.020 - Applicability 3-55
 9.36.030 - General Parking Regulations 3-56
 9.36.040 - Number of Parking Spaces Required 3-57
 9.36.050 - Disabled/Handicapped Parking Requirements 3-59
 9.36.060 - Bicycle Parking 3-60
 9.36.070 - Motorcycle Parking 3-60
 9.36.080 - Adjustment of Parking Requirements 3-61
 9.36.090 - Parking Design and Development Standards 3-63
 9.36.100 - Driveways and Site Access 3-68
 9.36.110 - Loading Space Requirements 3-70

Chapter 9.38 - Signs 3-73
 9.38.010 - Purpose 3-73
 9.38.020 - Applicability 3-73
 9.38.030 - Sign Permit and Master Sign Plan Requirements 3-74
 9.38.050 - Exemptions from Sign Permit Requirements 3-77
 9.38.060 - Prohibited Signs 3-80
 9.38.070 - General Requirements for All Signs 3-81
 9.38.080 - Sign Standards by Zone 3-85
 9.38.090 - Standards for Specific Sign Types 3-86
 9.38.100 - Nonconforming Signs 3-89
 9.38.110 - Amortization 3-90
 9.38.120 - Judicial Review 3-90

ARTICLE 4 Standards for Specific Land Uses

Chapter 9.40 - Sex-Oriented Business Regulations 4-3
 9.40.010 - Purpose 4-3
 9.40.020 - Permit Requirements 4-3
 9.40.030 - Specific Regulations 4-3

Chapter 9.42 - Standards for Specific Land Uses 4-5
 9.42.010 - Purpose and Applicability 4-5
 9.42.020 - Accessory Retail and Service Uses 4-6
 9.42.030 - Accessory Structures 4-6
 9.42.040 - Accessory Uses 4-7
 9.42.050 - Animal Keeping 4-8
 9.42.060 - Bed and Breakfast Inns (B&Bs) 4-11
 9.42.070 - Child Day Care Facilities 4-12
 9.42.080 - Drive-Through Facilities 4-14
 9.42.090 - Home Occupations 4-15
 9.42.100 - Live/Work Units 4-17
 9.42.110 - Mixed Use Projects 4-20

9.42.120 - Mobile Homes and Mobile Home Parks	4-22
9.42.130 - Multi-Family and Small Lot Single-Family Projects	4-24
9.42.140 - Outdoor Retail Displays and Sales	4-27
9.42.150 - Outdoor Storage.....	4-30
9.42.160 - Recycling Facilities	4-30
9.42.164 - Formula Restaurants.....	4-33
9.42.170 - Second Units	4-35
9.42.180 - Service Stations	4-36
9.42.190 - Windmills for Electricity Generation	4-39
Chapter 9.44 - Telecommunications Facilities.....	4-41
9.44.010 – Purpose	4-41
9.44.020 – Definitions.....	4-41
9.44.030 - Applicability	4-41
9.44.040 - Permit Requirements	4-42
9.44.050 - Limitations on Location	4-46
9.44.060 - Facility Design and Development Standards	4-47
9.44.070 - Operation and Maintenance Standards.....	4-48
9.44.080 - Discontinuance and Site Restoration	4-49
ARTICLE 5 Resource Management	
Chapter 9.50 - Agricultural Preservation - Right-to-Farm.....	5-3
9.50.010 - Purpose	5-3
9.50.020 - Relationship to Nuisance.....	5-3
9.50.030 - Disclosure Requirement	5-4
Chapter 9.52 - Hillside Development.....	5-5
9.52.010 - Purpose	5-5
9.52.020 - Applicability	5-5
9.52.030 - Permit Requirements.....	5-6
9.52.040 - Hillside Subdivision Standards	5-6
9.52.050 - Site Planning and Development Standards.....	5-6
9.52.060 - Building Design Standards	5-10
9.52.070 - Hillside Development Permit	5-11
Chapter 9.53 - Historical Resource Preservation	5-13
9.53.010 - Purpose	5-13
9.53.020 - Applicability	5-14
9.53.030 - Review Authority	5-15
9.53.040 - Historical Resources Eligibility, Listing and Management	5-17
9.53.050 - Alteration of Historic Structures, Districts and Neighborhoods.....	5-21
9.53.060 - Demolition or Removal	5-23
9.53.070 - Rehabilitation Incentives	5-25
9.53.080 - Duty to Maintain and Repair.....	5-27
9.53.090 - Unsafe or Dangerous Condition.....	5-27
9.53.100 - Inadvertent Archaeological Discoveries	5-28
Chapter 9.54 - Resource Conservation.....	5-33
9.54.010 - Purpose	5-33
9.54.020 - Applicability	5-33
9.54.030 - Energy Conservation Standard	5-33

9.54.040 - References to Additional City Resource Conservation Standards	5-34
9.54.050 - Construction Materials Recycling	5-34
Chapter 9.56 - Solar Siting and Solar Access	5-37
9.56.010 - Purpose and Objectives	5-37
9.56.020 - Applicability	5-37
9.56.030 - Definitions.....	5-37
9.56.040 - Subdivision Design, Building Orientation, Easements, and Access	5-38
9.56.050 - Solar Access Easements	5-39
9.56.060 - Solar Shade Control Act.....	5-40
9.56.070 - Solar Rights Act.....	5-40
Chapter 9.58 - Tree Preservation and Hazardous Tree Removal	5-41
9.58.010 - Purpose	5-41
9.58.020 - Applicability	5-41
9.58.030 - Tree Removal Permit Application Requirements.....	5-43
9.58.040 - Exemptions.....	5-45
9.58.050 - Tree Removal Permit Findings and Conditions	5-45
9.58.060 - Post Approval Procedures.....	5-47
9.58.070 - Tree Removal Without Permit	5-47
Chapter 9.59 - Environmentally Sensitive Habitat Areas Protection and Preservation	5-49
9.59.010 - Purpose	5-49
9.59.020 - Applicability	5-50
9.59.030 - Definitions.....	5-50
9.59.040 - Application Requirements	5-50
9.59.050 - Stream Conservation and Management.....	5-54
9.59.060 - Wetland Conservation and Management	5-56
9.59.070 - Project Review Procedures	5-58
9.59.080 - Conservation Easements	5-59
9.59.090 - Findings Required for Project Approval.....	5-59
9.59.100 - Notice of Protection Combining Zone Overlay	5-59

ARTICLE 6 Site Development Regulations

Chapter 9.60 - Flood Hazard Mitigation Standards.....	6-3
9.60.010 - Purpose	6-3
9.60.020 - Authority	6-3
9.60.030 - Definitions.....	6-4
9.60.040 - Applicability	6-4
9.60.050 - Administration.....	6-5
9.60.060 - Permit Requirements.....	6-6
9.60.070 - Standards for Flood Hazard Reduction	6-6
9.60.080 - Flood Standard Exceptions	6-10
9.60.090 - Appeal	6-12
Chapter 9.62 - Geologic Hazard Review	6-13
9.62.010 - Purpose	6-13
9.62.020 - Applicability - Geologic Hazards Land Use Matrix.....	6-13
9.62.030 - Report Contents	6-17
9.62.040 - Development Standards.....	6-18
9.62.050 - Alquist-Priolo Earthquake Fault Zone.....	6-19

Chapter 9.64 - Grading, Erosion, and Sediment Control 6-23
 9.64.010 - Purpose 6-23
 9.64.020 - Applicability of Grading Regulations..... 6-23
 9.64.030 - Definitions..... 6-24
 9.64.040 - Incorporation of California Building Code (CBC) 6-24
 9.64.050 - Grading Permit Requirements 6-24
 9.64.060 - Grading Permit Application Filing and Processing 6-26
 9.64.070 - Grading Standards 6-27
 9.64.080 - Completion of Grading 6-30

Chapter 9.66 - Urban Runoff Pollution Control 6-31
 9.66.010 - Purpose 6-31
 9.66.020 - Urban Runoff Water Quality and Discharge Management 6-32
 9.66.030 - Site Development and Maintenance Standards 6-38
 9.66.040 - Urban Runoff Mitigation Plan Requirements 6-39
 9.66.050 - Drainage Structure Stenciling..... 6-41
 9.66.060 - Pollution Prevention Agreements 6-41
 9.66.070 - Project Site Best Management Practices 6-42

ARTICLE 7 Planning Permit Procedures

Chapter 9.70 - Permit Application Filing and Processing 7-3
 9.70.010 - Purpose of Chapter 7-3
 9.70.020 - Authority for Land Use and Zoning Decisions 7-3
 9.70.030 - Application Preparation and Filing..... 7-3
 9.70.040 - Application Fees..... 7-4
 9.70.050 - Recreation Fee for New Construction 7-6
 9.70.060 - Initial Application Review..... 7-8
 9.70.070 - Project Evaluation and Staff Report 7-9

Chapter 9.72 - Permit Approval or Disapproval 7-11
 9.72.010 - Purpose of Chapter 7-11
 9.72.020 - Certificate of Occupancy 7-11
 9.72.030 - Coastal Permit 7-13
 9.72.040 - Design Review 7-17
 9.72.050 - Emergency Permit..... 7-20
 9.72.070 - Planned Development Permit..... 7-22
 9.72.080 - Use Permit and Minor Use Permit 7-27
 9.72.090 - Variance 7-29
 9.72.100 - Zoning Clearance 7-31

Chapter 9.74 - Public Hearings 7-33
 9.74.010 - Purpose of Chapter 7-33
 9.74.020 - Notice of Hearing..... 7-33
 9.74.030 - Waiver of Public Hearing on Coastal Permit for Minor Development 7-35
 9.74.040 - Notice of Non-Appealable Development 7-36
 9.74.050 - Scheduling of Hearing 7-36
 9.74.060 - Hearing Procedure 7-37
 9.74.070 - Recommendation by 7-37
 9.74.080 - Decision and Notice 7-37
 9.74.090 - Effective Date of Decision 7-37

Chapter 9.76 - Appeals	7-39
9.76.010 - Purpose of Chapter	7-39
9.76.020 - Appeal Subjects and Jurisdiction.....	7-39
9.76.030 - Filing and Processing of Appeals	7-40
9.76.040 - Appeals to the Coastal Commission.....	7-42
Chapter 9.78 - Environmental Impact Assessment	7-45
9.78.010 - Purpose of Chapter	7-45
9.78.020 - Authority	7-46
9.78.030 - Guiding Principles	7-46
9.78.040 - Applicability	7-46
9.78.050 - Preparation of Environmental Documents.....	7-47
9.78.060 - Exemptions from CEQA	7-47
9.78.070 - Fees	7-48
9.78.080 - Appeals	7-48
9.78.090 - Public Hearings	7-48
9.78.100 - Time Limits	7-49
9.78.110 - Review and Determination Procedures	7-49
9.78.120 - Negative Declaration	7-51
9.78.130 - Draft Environmental Impact Report	7-53
9.78.140 - Final Environmental Impact Report	7-54
9.78.150 - Standards of Adequacy	7-55
9.78.160 - Content of Environmental Impact Report	7-55
9.78.170 - Findings.....	7-56
9.78.180 - Notice of Determination.....	7-57
Chapter 9.79 - Permit Implementation, Time Limits, and Extensions	7-59
9.79.010 - Purpose of Chapter	7-59
9.79.020 - Effective Date of Permits	7-59
9.79.030 - Final City Action on a Planning Permit within the Coastal Zone.....	7-60
9.79.040 - Applications Deemed Approved	7-61
9.79.050 - Permits to Run with the Land	7-61
9.79.060 - Performance Guarantees	7-61
9.79.070 - Permit Time Limits, Extensions, and Expiration	7-62
9.79.080 - Change to an Approved Project	7-63
9.79.090 - Resubmittal	7-64
9.79.100 - Covenant of Easements	7-64

ARTICLE 8 Subdivision Regulations and Procedures

Chapter 9.80 - Applicability and Administration of Subdivision Regulations	8-3
9.80.010 - Purpose of Article	8-3
9.80.020 - Authority	8-3
9.80.030 - Applicability	8-3
9.80.040 - Responsibility for Administration	8-4
9.80.050 - Advisory Agency.....	8-4
9.80.060 - Authority for Subdivision Decisions	8-5
9.80.070 - Type of Subdivision Approval Required	8-6
9.80.080 - Applications Deemed Approved	8-7
9.80.090 - Exceptions to Subdivision Standards	8-7
9.80.100 - Appeals	8-7
9.80.110 - Enforcement of Subdivision Regulations.....	8-8

Chapter 9.81 - Tentative Map Filing and Processing..... 8-9

- 9.81.010 - Purpose of Chapter 8-9
- 9.81.020 - Tentative Map Preparation, Application Contents 8-9
- 9.81.030 - Tentative Map Filing, Initial Processing..... 8-9
- 9.81.040 - Evaluation of Application 8-10
- 9.81.050 - Review and Decision 8-10
- 9.81.060 - Findings Required for Tentative Map Approval 8-11
- 9.81.070 - Conditions of Approval 8-12
- 9.81.080 - Effective Date of Tentative Map Approval 8-12
- 9.81.090 - Changes to Approved Tentative Map or Conditions 8-12
- 9.81.100 - Completion of Subdivision Process 8-13
- 9.81.110 - Vesting Tentative Maps 8-14
- 9.81.120 - Tentative Map Time Limits and Expiration 8-14
- 9.81.130 - Extensions of Time for Tentative Maps 8-14

Chapter 9.82 - Parcel Maps and Final Maps 8-15

- 9.82.010 - Purpose of Chapter 8-15
- 9.82.020 - Parcel Maps 8-15
- 9.82.030 - Waiver of Parcel Map 8-15
- 9.82.040 - Parcel Map Form and Content 8-15
- 9.82.050 - Filing and Processing of Parcel Maps 8-16
- 9.82.060 - Parcel Map Approval 8-16
- 9.82.070 - Final Maps 8-16
- 9.82.080 - Final Map Form and Content 8-16
- 9.82.090 - Filing and Processing of Final Maps 8-17
- 9.82.100 - Final Map Approval 8-17
- 9.82.110 - Supplemental Information Sheets 8-18
- 9.82.120 - Amendments to Recorded Maps 8-19

Chapter 9.84 - Additional Subdivision Procedures 8-21

- 9.84.010 - Purpose of Chapter 8-21
- 9.84.020 - Certificates of Compliance 8-21
- 9.84.030 - Condominiums 8-21
- 9.84.040 - Condominium Conversion 8-22
- 9.84.050 - Lot Line Adjustment..... 8-26
- 9.84.060 - Parcel Merger 8-27
- 9.84.070 - Reversion to Acreage 8-27

Chapter 9.86 - Dedications and Exactions 8-29

- 9.86.010 - Purpose of Chapter 8-29
- 9.86.020 - Applicability 8-29
- 9.86.030 - Park Land Dedications and Fees 8-29
- 9.86.040 - Reservations of Land for Public Facilities..... 8-34
- 9.86.050 - Right-of-Way Dedications..... 8-35

Chapter 9.88 - Subdivision Design and Improvement Requirements..... 8-37

- 9.88.010 - Purpose of Chapter 8-37
- 9.88.020 - Applicability of Design and Improvement Standards 8-37
- 9.88.030 - Subdivision Design and Improvement Standards..... 8-38
- 9.88.032 - Subdivision Design and Improvement Standards - Special Residential Subdivisions..... 8-46
- 9.88.040 - Site Preparation and Subdivision Construction 8-47
- 9.88.050 - Improvement Plans 8-47
- 9.88.060 - Installation of Improvements 8-48

9.88.070 - Improvement Agreements and Security 8-50
 9.88.080 - Soils Reports 8-52

ARTICLE 9 Land Use Code Administration

Chapter 9.90 - Nonconforming Uses, Structures, and Parcels 9-3
 9.90.010 - Purpose and Intent of Chapter 9-3
 9.90.020 - Nonconforming Uses 9-3
 9.90.030 - Nonconforming Structures 9-4
 9.90.040 - Nonconforming Parcels 9-5
 9.90.050 - Exemptions 9-6
 9.90.060 - Unlawful Uses and Structures 9-8
 9.90.070 - Nuisance Abatement 9-8

Chapter 9.92 – Amendments 9-9
 9.92.010 - Purpose of Chapter 9-9
 9.92.020 - Processing, Notice, and Hearing 9-9
 9.92.030 - Planning Commission Action on Amendment 9-10
 9.92.040 - Council Action on Amendment 9-10
 9.92.050 - Findings 9-10
 9.92.060 - Rezoning 9-11
 9.92.070 - Amendments to the Local Coastal Program 9-12

Chapter 9.94 - Growth Management 9-13
 9.94.010 - Purpose of Chapter 9-13
 9.94.020 - Effect of Sphere of Influence 9-13
 9.94.030 - Changes to Sphere of Influence 9-13
 9.94.040 - Rezoning of Parcels Within Sphere of Influence 9-14
 9.94.050 - Annexation Procedures 9-14
 9.94.060 - Annexation Application Requirements 9-15
 9.94.070 - Criteria for Annexation of Undeveloped Land 9-16
 9.94.080 - Criteria for Annexation of Land With Existing Urban Development 9-17
 9.94.090 - Urban Services Boundary 9-17
 9.94.100 - Extension of Services Outside City Boundary 9-17
 9.94.110 - Modification of Urban Services Boundary 9-18

Chapter 9.96 - Enforcement and Penalties 9-19
 9.96.010 - Purpose of Chapter 9-19
 9.96.020 - Permits and Licenses 9-19
 9.96.030 - Official Duty to Enforce 9-19
 9.96.040 - Violations 9-20
 9.96.050 - Remedies are Cumulative 9-20
 9.96.060 - Inspections 9-21
 9.96.070 - Permit Revocation or Modification 9-21
 9.96.080 - Initial Enforcement Action 9-23
 9.96.090 - Legal Remedies 9-24
 9.96.100 - Recovery of Costs 9-25
 9.96.110 - Additional Permit Processing Fees 9-26
 9.96.120 - Reinspection Fees 9-26

ARTICLE 10 Glossary

Chapter 9.100 - Definitions	10-3
9.100.010 - Purpose	10-3
9.100.020 - Definitions of Specialized Terms and Phrases.....	10-3

ARTICLE 1

Coastal Land Use Code Applicability

Chapter <u>9C.10</u> - Purpose and Applicability of Land Use Code	1-3
<u>9C.10.010</u> - Purposes of <u>Coastal</u> Land Use Code	1-3
<u>9C.10.020</u> - Authority, Relationship to General Plan and Local Coastal Program	1-3
<u>9C.10.030</u> - Responsibility for Administration	1-4
<u>9C.10.040</u> - Applicability of the <u>Coastal</u> Land Use Code	1-5
<u>9C.10.050</u> - Rules of Interpretation	1-6
Chapter <u>9.12C</u> – Zoning Map	1-9
<u>9C.12.010</u> - Purpose	1-9
<u>9C.12.020</u> - Zoning Map and Zoning Districts	1-9
<u>9C.12.030</u> - Land Use Code Map	1-11

CHAPTER 9C.10 - PURPOSE AND APPLICABILITY OF LAND USE CODE

Sections:

- 9C.10.010 - Purposes of Coastal Land Use Code
- 9C.10.020 - Authority, Relationship to General Plan and Local Coastal Program
- 9C.10.030 - Responsibility for Administration
- 9C.10.040 - Applicability of the Coastal Land Use Code
- 9C.10.050 - Rules of Interpretation

9C.10.010 - Purposes of Land Use Code

Title 9C of the Arcata Municipal Code constitutes the City of Arcata Coastal Land Use Code, hereafter referred to as "this Coastal 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 Coastal 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 Coastal Zone portion of the City. More specifically, the purposes of this Coastal 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.

9C.10.020 - Authority, Relationship to General Plan and Local Coastal Program

- A. **Authority.** The regulations within this Coastal 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 Coastal 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), including the Coastal Land Use Element. The Arcata City Council intends that all provisions of this Coastal Land Use Code be consistent with the General Plan and Local Coastal Program, including the Coastal Land Use Element, 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)~~, including the Coastal Land Use Element. However, if there is a conflict between the Coastal Land Use Code and any section of the Municipal Code, in the Coastal Zone the Coastal Land Use Code takes precedence.

C. If there is a conflict between Coastal Land Use Code provisions, the most stringent code provision applies.

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

- Article 1 - Coastal Land Use Code Applicability
- Article 2 - Zoning Districts and Allowable Land Uses
- Article 3 - Site Planning and Project Design Standards**
- Article 4 - Standards for Specific Land Uses**
- Article 5 - Resource Management
- Article 6 - Site Development Regulations
- Chapter 9C.70 - Permit Application Filing and Processing**
- Section 9C.72.030 - Coastal Permit
- Section 9C.72.050 - Emergency Permit
- Chapter 9C.74 - Public Hearings
- Chapter 9C.76 - Appeals
- Chapter 9C.79 - Permit Implementation, Time Limits and Extensions
- Section 9C.80.070 – Type of Subdivision Approval Required**
- Section 9C.81.060 - Findings Required for Tentative Map Approval**
- Chapter 9C.90 - Nonconforming Uses, Structures, and Parcels**
- Chapter 9C.92 - Amendments
- Chapter 9C.96 - Enforcement and Penalties**
- Chapter 9C.10 - Glossary**

9C.10.030 - Responsibility for Administration

- A. **Responsible bodies and individuals.** This Coastal 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 Coastal 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 Coastal 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 Coastal 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.

5. The decision is protective of all coastal resources as mandated by the policies of the Coastal Act.

9C.10.040 - Applicability of the Land Use Code

This Coastal 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 Coastal 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 9C.20.020 (General Requirements for Development and New Land Uses), and Chapter 9C.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 Coastal Land Use Code.
- B. **Subdivisions.** Any subdivision of land proposed, or recognized by Certificate of Compliance, within the City after the effective date of ~~this Land Use Code~~ the Coastal Act 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 Coastal Land Use Code.
- C. **Continuation of an existing land use.** An existing land use is lawful and not in violation of this Coastal Land Use Code only when operated and maintained in compliance with all applicable provisions of this Coastal Land Use Code, including Chapter 9C.90 (Nonconforming Uses, Structures, and Parcels). However, the requirements of this Coastal 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~~ the Coastal Act.
- 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 Coastal 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 Coastal Land Use Code or any amendment, need not be changed to satisfy any new or different requirements of this Coastal 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 Coastal Land Use Code shall be minimum requirements for the promotion of the public health, safety, and general welfare. When this Coastal 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 Coastal 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 Coastal Land Use Code.
- F. **Conflicting requirements:**
1. **Land Use Code and Municipal Code provisions.** If conflicts occur between requirements of this Coastal Land Use Code ~~occur, the most restrictive shall apply, or if conflicts occur~~ between this Coastal Land Use Code and the Arcata Municipal Code, or other regulations of the City, ~~the most restrictive shall apply~~ in the Coastal Zone, the Coastal Land Use Code shall take

precedence.

2. **Development Agreements or Specific Plans.** If conflicts occur between the requirements of this Coastal 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~~ Coastal Land Use Code shall apply.
3. **Private agreements.** This Coastal 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 Coastal 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 Coastal Land Use Code, the City's Local Coastal Program, including the Coastal Land Use Element, 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 Coastal Land Use Code and the Coastal Commission.

- H. **Other requirements may apply.** Nothing in this Coastal 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.

9C.10.050 - Rules of Interpretation

- A. **Authority.** The Zoning Administrator has the authority to interpret any provision of this Coastal Land Use Code. Whenever the Zoning Administrator determines that the meaning or applicability of any Coastal 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 9C.76 (Appeals).
- B. **Language.** When used in this Coastal 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 Coastal Land Use Code, or in any permit, condition of approval, or notice provided in compliance with this Coastal Land Use Code, unless otherwise specified, 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 9C.12.020 (Zoning Map and Zoning Districts).

- E. **Allowable uses of land.** See Section 9C.20.030 (Allowable Land Uses and Permit Requirements).
- F. **State law requirements.** Where this Coastal 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 Code Map

9C.12.010 - Purpose

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

9C.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 Coastal 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 no~~ unsubdivided acreage is may be subdivided, by location of the zoning boundary that divided the acreage, ~~shall~~ The boundary shall not 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
<u>C-AE</u>	<u>Coastal Agricultural - Exclusive</u>	<u>Coastal Agricultural - Exclusive C-AE</u>
<u>C-NR:SP</u> <u>C-NR:WP</u>	<u>Coastal Natural Resource with Stream Protection Overlay</u> <u>Coastal Natural Resource with Wetlands Protection Overlay</u>	<u>Coastal Natural Resource C-NR-WSP</u>
<u>C-NR-PT</u>	<u>Coastal Natural Resource - Public Trust</u>	<u>Coastal Natural Resource - PT</u>
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
<u>C-RVL</u>	<u>Coastal Residential - Very Low Density</u>	<u>Coastal Residential - Very Low Density</u>
<u>C-RL</u>	<u>Coastal Residential - Low Density</u>	<u>Coastal Residential - Low Density</u>
<u>C-RM</u>	<u>Coastal Residential - Medium Density</u>	<u>Coastal Residential - Medium Density</u>
<u>C-RH</u>	<u>Coastal Residential - High Density</u>	<u>Coastal Residential - High Density</u>
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
<u>C-CC</u>	<u>Coastal Commercial - Central</u>	<u>Coastal Commercial - Central</u>
<u>C-CG</u>	<u>Coastal Commercial - General</u>	<u>Coastal Commercial - General</u>

CITY OF ARCATA MUNICIPAL CODE – TITLE 9 – LAND USE CODE

<u>C-CV</u>	<u>Coastal Commercial - Visitor Serving</u>	<u>Coastal Commercial - Visitor Serving</u>
<u>C-CM</u>	<u>Commercial - Mixed Use Center</u>	<u>Coastal Commercial - Mixed Use Center</u>

Industrial and Public Facility Districts

IL	Industrial - Limited	Industrial - Limited
IG	Industrial - General	Industrial - General
PF	Public Facility	Public Facility
<u>C-IL</u>	<u>Coastal Industrial - Limited</u>	<u>Coastal Industrial - Limited</u>
<u>C-IG</u>	<u>Coastal Industrial - General</u>	<u>Coastal Industrial - General</u>
<u>C-PF</u>	<u>Coastal Public Facility</u>	<u>Coastal Public Facility</u>

Zoning District Symbol	Name of Zoning District	General Plan Designation Implemented by Zoning District
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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: <u>Coastal Agriculture</u> Natural Resource: <u>Coastal Natural Resource</u> Residential: <u>Coastal Residential</u> Commercial: <u>Coastal Commercial</u> Industrial: <u>Coastal Industrial</u> Public Facility: <u>Coastal Public Facility</u>
:WP	Wetland Protection	Natural Resource – WSP; <u>Coastal Natural Resource – WSP</u>
:SP	Stream Protection	Natural Resource – WSP; <u>Coastal Natural Resource – WSP</u>

9C.12.030 - Land Use Code Map

- A. ~~Land Use Code Map adopted. The official City map entitled "City and Sphere of Influence Land Use Code 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 Code Map.** The purpose and effect of ~~this map the Land Use Code 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 Coastal 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 Code Map ~~shall be~~ do not become effective immediately upon until after the annexation of each subject parcel to the City has been completed per Sections 9.92.060 and 9.94.040 of this Coastal Land Use Code and a Local Coastal Program amendment to apply the designations over the annexed properties has been adopted by the City and certified by the Coastal Commission pursuant to the procedures of Section 9.92.070 of this Coastal Land Use Code.
- C. Amendments.** Amendments to the Land Use Code Map shall comply with the criteria and procedures in Chapters 9C.92 (Amendments), and 9.94 (Annexation) of the Land Use Code.

ARTICLE 2

Zoning Districts & Allowable Land Uses

Chapter 9.20 - Development and Land Use Approval Requirements.....	2-3
<u>9C</u> .20.010 - Purpose	2-3
<u>9C</u> .20.020 - General Requirements for Development and New Land Uses	2-3
<u>9C</u> .20.030 - Allowable Land Uses and Permit Requirements	2-4
<u>9C</u> .20.040 - Exemptions from Planning Permit Requirements	2-6
Chapter 9.22 - Agricultural and Resource Zoning Districts	2-9
<u>9C</u> .22.010 - Purpose	2-9
<u>9C</u> .22.020 - Purposes of the Agricultural and Resource Zoning Districts	2-9
<u>9C</u> .22.030 - Agricultural and Resource District Allowable Land Uses.....	2-10
<u>9C</u> .22.040 - Agricultural and Resource District Parcel and Density Standards	2-13
<u>9C</u> .22.050 - Agricultural and Resource District Site Planning and Building Standards	2-13
<u>9C</u> .22.060 - Agricultural and Resource District Land Use Limitations	2-15
<u>9C</u> .22.070 - Agricultural and Resource Special Considerations	2-16
Chapter 9.24 - Residential Zoning Districts	2-17
<u>9C</u> .24.010 - Purpose	2-17
<u>9C</u> .24.020 - Purposes of the Residential Zoning Districts.....	2-17
<u>9C</u> .24.030 - Residential District Allowable Land Uses	2-18
<u>9C</u> .24.040 - Residential District Parcel and Density Standards	2-21
<u>9C</u> .24.050 - Residential District Site Planning and Building Standards	2-21
<u>9C</u> .24.060 - Residential District Land Use Limitations	2-26
<u>9C</u> .24.070 - Residential Special Considerations	2-27
Chapter 9.26 - Commercial, Industrial, and Public Facility Zoning Districts	2-29
<u>9C</u> .26.010 - Purpose	2-29
<u>9C</u> .26.020 - Purposes of Commercial, Industrial, and Public Facility Zoning Districts.....	2-29
<u>9C</u> .26.030 - Commercial, Industrial, and Public Facility District Allowable Land Uses	2-30
<u>9C</u> .26.040 - Commercial, Industrial, and Public Facility District Parcel and Density Standards	2-36
<u>9C</u> .26.050 - Commercial, Industrial, and Public Facility District Site Planning and Building Standards.....	2-36
<u>9C</u> .26.060 - Commercial, Industrial, and Public Facility District Land Use Limitations	2-44
<u>9C</u> .26.070 - Commercial, Industrial, and Public Facility Special Considerations.....	2-45
Chapter 9.28 - Combining Zones	2-47
<u>9C</u> .28.010 - Purpose	2-47
<u>9C</u> .28.020 - Applicability of Combining Zones	2-47
<u>9C</u> .28.030 - Coastal Zone (:CZ) Combining Zone	2-48
<u>9C</u> .28.040 - Historic Landmark (:HL) Combining Zone	2-48
<u>9C</u> .28.050 - Natural Hazards (:NH) Combining Zone	2-49
<u>9C</u> .28.060 - Neighborhood Conservation Area (:NCA) Combining Zone	2-51
<u>9C</u> .28.070 - Planned Development (:PD) Combining Zone	2-52

CITY OF ARCATA MUNICIPAL CODE – TITLE 9 – LAND USE CODE

9C.28.080 - Plaza Area (:PA) Combining Zone 2-53
9C.28.090 - Special Considerations (:SC) Combining Zone 2-54
~~9.28.100 - Wetland Protection (:WP) and Stream Protection (:SP) Combining Zones 2-55~~

CHAPTER 9.20 -DEVELOPMENT AND LAND USE APPROVAL REQUIREMENTS

Sections:

- 9C.20.010 - Purpose
- 9C.20.020 - General Requirements for Development and New Land Uses
- 9C.20.030 - Allowable Land Uses and Permit Requirements
- 9C.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 9C.22 through 9C.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 9C.20.030 (Allowable Land Uses and Permit Requirements).
- B. **Permit and approval requirements.** Any planning permit or other approval required by Section 9C.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 9C.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, and the Coastal Act.

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 9C.22, 9C.24, and 9C.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 the Coastal Land Use Plan and this Coastal 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 9C.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 9C.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.
 - (6) The use will be consistent with the Coastal Land Use Plan and the otherwise applicable requirements of this Coastal Land Use Code.

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 9C.76 (Appeals).
- B. **Permit requirements.** Tables 2-1, 2-4, and 2-10 within Chapters 9C.22, 9C.24, and 9C.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 9C.72.100). These are shown as "P" uses in the tables;
 - 2. Allowed subject to Minor Use Permit approval (Section 9C.72.080), and shown as "MUP" uses in the tables;
 - 3. Allowed subject to Use Permit approval (Section 9C.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 9C.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 9C.72.040), a Coastal Permit (Section 9C.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 9C.90 (Nonconforming Uses, Structures, and Parcels);
2. No Coastal Permit is required by Section 9C.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 9C.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 9C.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 9C.44 (Telecommunications Facilities).

CHAPTER 9C.22 - AGRICULTURAL AND RESOURCE ZONING DISTRICTS

Sections:

- 9C.22.010 - Purpose
- 9C.22.020 - Purposes of the Agricultural and Resource Zoning Districts
- 9C.22.030 - Agricultural and Resource District Allowable Land Uses
- 9C.22.040 - Agricultural and Resource District Parcel and Density Standards
- 9C.22.050 - Agricultural and Resource District Site Planning and Building Standards
- 9C.22.060 - Agricultural and Resource District Land Use Limitations
- 9C.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 9C.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:CZ (Agriculture Exclusive) district.** The AE:CZ 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:CZ zoning district is consistent with and implements the Coastal Agriculture Exclusive land use classification of the ~~General~~ Coastal Land Use 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:CZ 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:CZ district is separated into two sub-districts: ~~Timber Production (NR-TP),~~ Wetland and Stream Protection (NR-WSP) and Public Trust (NR-PT). The C-NR zoning district is consistent with and implements the Coastal Natural Resource land use classification of the ~~General~~ Coastal Land Use Plan.

9C.22.030 – Coastal Agricultural and Resource District Allowable Land Uses

- A. **Allowable uses and planning permit requirements.** Table C-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 9C.20.030 (Allowable Land Uses and Permit Requirements).
- B. **Allowable uses within the Coastal Zone.** The land uses identified by Table C-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:CZ zoning district). Land uses proposed on diked or otherwise reclaimed former tidelands are also subject to the limitations in Section 9C.22.060 (Coastal Agricultural and Resource District Land Use Limitations).
- C. **Additional City approval requirements.** Any land use identified as allowable by Table C-2-1 may require Design Review (Section 9C.72.040), a Coastal Permit (Section 9C.72.030), and/or a building permit in compliance with the Municipal Code, in addition to the planning permit required by Table C-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 Coastal Land Use Code may also apply.

CITY OF ARCATA MUNICIPAL CODE – TITLE 9 – LAND USE CODE

TABLE C-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				
	PERMIT REQUIRED BY DISTRICT				
LAND USE (1)	AE	AE-CZ	AR	NR-TP WSP-CZ	NR-PT-CZ

AGRICULTURAL & OPEN SPACE USES

Agricultural accessory structure, 4,000 sf or less	P	P	MUP	MUP	MUP	9C.22.060,
Agricultural accessory structure, larger than 4,000 sf	MUP	MUP	MUP	MUP	MUP	
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	9C.22.060,
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	—	—	9C.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)	9C.22.060
Forestry	MUP	—	MUP	P(2)	—	
Nature preserves, habitat and wetland restoration	P(2)	P(2)	P(2)	P(2)	P(2)	9C.22.060
Winery	UP	UP	UP	—	—	

RECREATION, EDUCATION & PUBLIC ASSEMBLY USES

Boat launching facility	—	MUP	—	—	UP	9C.22.060
Coastal access trail	P	P	P	UP	UP	9C.22.060
Equestrian facility, maintaining 8 or fewer horses	P	MUP	UP	—	—	9C.42.050
Equestrian facility, maintaining 9 or more horses	MUP	MUP	UP	—	—	9C.42.050
Interpretive center	—	—	—	UP	UP	9C.22.060
Non-vehicular recreation	P	P(3)	P	P(3)	P(3)	9C.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 WSP	Natural Resource - Timber Production - Wetland and Stream Protection -
AE-CZ	Agriculture - Exclusive - Coastal Zone	NR-PT- CZ	Natural Resource - Public Trust - Coastal Zone
AR	Agriculture Residential		

Notes:

- (1) See Article 10 for land use definitions.
- (2) Zoning Clearance not required.
- (3) See Section 9C.22.060.B.

CITY OF ARCATA MUNICIPAL CODE – TITLE 9 – LAND USE CODE

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)	AE	AE-CZ	AR	NR-TP WSP-CZ	NR- PT-CZ	Regulations
RESIDENTIAL USES						
Farmworker housing for agriculture activities on site	UP	UP	UP	—	—	
Home occupation	P	P	P	P	P	9C.42.090
Mobile home - Outside of mobile home park <u>as a farm dwelling (3)</u>	P	P UP	P	P	P	9C.42.120
Residential accessory use or structure to an existing farm dwelling (3)	P	P UP	P	—	—	9C.42.030
Residential care facility, 6 or fewer clients	MUP	MUP	P	—	—	
Second dwelling unit	P	P	P	—	—	9C.42.170
Single family Farm dwelling (3)	P	P UP	P	P	P	
RETAIL TRADE						
Mobile vendors	MUP	MUP	MUP	MUP	MUP	
Produce stand, 1,000 sf maximum	MUP	MUP	MUP	MUP	MUP	9C.42.140F
SERVICES						
Child day care - Large family day care home	P	P	P	P	P	9C.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	—	—	9C.42.060
Lodging - Bed & breakfast inn (B&B) inn, 6 or more rooms	MUP	MUP	MUP	—	—	9C.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	9C.42.190

Key to Zoning District Symbols

AE	Agriculture - Exclusive	NR-TP	Natural Resource - Timber Production -
		WSP	Wetland and Stream Protection -
AE-CZ	Agriculture - Exclusive - Coastal Zone	NR-	Natural Resource - Public Trust =
AR	Agriculture - Residential	PT-CZ	<u>Coastal Zone</u>

Notes:

- (1) See Article 10 for land use definitions.
- (2) Zoning Clearance not required.
- (3) A "farm dwelling" comprises a single-family residence occupied by the owner/operator of the farm, whose presence and occupancy is necessary to the operation of the agricultural uses at the site.

9C.22.040 – Agricultural and Resource District Parcel and Density Standards

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

Table C-2-2 – Parcel and Density Standards

Development Standard	Requirement by Zoning District		
	AE:CZ	AR	NR-TP -WSP:CZ, -PT:CZ
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 per parcel

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

Table C-2-3 – ~~AE:CZ, AR,~~ and ~~NR:CZ~~ District Standards

Development Standard	AE:CZ Zone Requirement	AR Zone Requirement	NR:CZ Zone Requirement
Setbacks – <i>Minimum and, where noted, maximum setbacks required. See Section 9C.30.090 for exceptions to these requirements.</i>			
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) – <i>Maximum allowable FAR. See the definition of FAR in Article 10 (Glossary)</i>			
Maximum FAR	0.10; additional FAR may be authorized through Use Permit approval.	0.10	Not Applicable
Height limit – <i>Maximum allowable height of structures. See Section 9C.30.040 (Height Limits and Exceptions) for height measurement requirements, and height limit exceptions.</i>			
Maximum Height	35 ft.	35 ft.	35 ft.
Landscaping – See Chapter 9C-.34 (Landscaping)			
Parking – See Chapter 9C-.36 (Parking and Loading)			
Signs – See Chapter 9C-.38 (Signs)			

9C.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 C-LU-10.

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

CHAPTER 9.24 -RESIDENTIAL ZONING DISTRICTS

Sections:

- 9C.24.010 - Purpose
- 9C.24.020 - Purposes of the Residential Zoning Districts
- 9C.24.030 - Residential District Allowable Land Uses
- 9C.24.040 - Residential District Parcel and Density Standards
- 9C.24.050 - Residential District Site Planning and Building Standards
- 9C.24.060 - Residential District Land Use Limitations
- 9C.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 9C.12.020 (Coastal 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.

9C.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 9C.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 9C.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:CZ	RL:CZ	RM:CZ	RH:CZ	
AGRICULTURAL & OPEN SPACE USES					
Agricultural accessory structure	MUP	UP	UP	UP	9C.42.030
Animal keeping	S	S	S	S	9C.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	9C.42.140F
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES					
Equestrian facility	UP	—	—	—	9C.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	9C.42.090
Mobile home - Outside of mobile home park	P	P	P	P	9C.42.120
Mobile home park, including individual mobile homes	UP	UP	UP	UP	9C.42.120
Multi-family housing, 2 units	—	P	P	P	9C.42.130
Multi-family housing, 3 to 9 units	—	MUP(2)	P	P	9C.42.130
Multi-family housing, 10 or more units	—	—	P	P	9C.42.130
Organizational house (sorority, monastery, religious, etc.)	UP	UP	UP	UP	
Residential accessory use or structure	P	P	P	P	9C.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	9C.42.170
Single-family dwelling	P	P	P	P	
Transitional housing	UP	UP	UP	UP	

Key to Zoning District Symbols

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

Notes:

- (1) See Article 10 (Glossary) for land use definitions.
- (2) Allowed only in compliance with Section 9C.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
	<u>RVL:CZ</u>	<u>RL:CZ</u>	<u>RM:CZ</u>	<u>RH:CZ</u>	

RETAIL TRADE

Accessory retail	<u>UP</u>	UP	P	P	<u>9C.42.020</u>
Convenience store	<u>UP</u>	UP	UP	UP	

SERVICES

Accessory services	<u>UP</u>	UP	P	P	<u>9C.42.020</u>
Child day care - Large or small family day care home	P	P	P	P	<u>9C.42.070</u>
Child or adult day care center	MUP	MUP	MUP	MUP	<u>9C.42.070</u>
Group Quarters	<u>UP</u>	UP	UP	UP	
Lodging - Bed and breakfast inn (B&B), 5 or fewer rooms	P	P	P	P	<u>9C.42.060</u>
Lodging - Bed and breakfast inn (B&B), 6 or more rooms	MUP	MUP	MUP	MUP	<u>9C.42.060</u>
Lodging - Hostel	MUP	MUP	MUP	MUP	
Medical services - Extended care	MUP	MUP	MUP	MUP	
Mobile maintenance services	<u>S</u>	S	S	S	<u>9C.42.090</u>

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	<u>9C.42.190</u>

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 <u>9C.42.170</u>				

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 9C.88.032.
- (2) Section 9C.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 9C.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

<i>Setbacks - Minimum and, where noted, maximum setbacks required. See Section 9.30.090 for exceptions to these requirements. See Figure 2-1.</i>		
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 <u>9C.42.030</u> (Accessory Structures)	
Streamside setbacks	See Chapter <u>9C.59</u>	

<i>Floor area ratio (FAR) - Maximum allowable FAR. See the definition and illustration of FAR in Article 10 (Glossary)</i>		
Maximum FAR	0.20	N/A

<i>Maximum site coverage - Maximum percentage of site area to be occupied by structures, parking, driveways, and pavement.</i>		
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 9C.34 (Landscaping)
Parking - See Chapter 9C.36 (Parking and Loading)
Signs - See Chapter 9C.38 (Signs)

e 2-1 - Setback Requirements

Figure

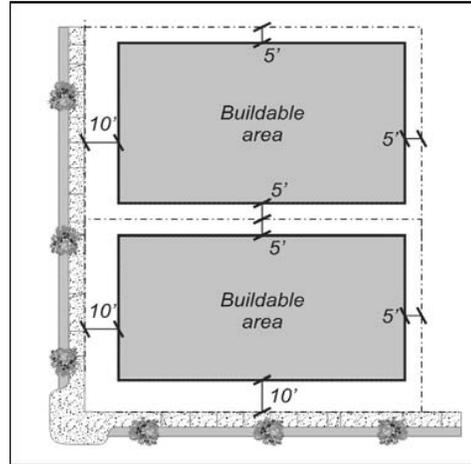


Figure 2-2 - Building Height and Profile

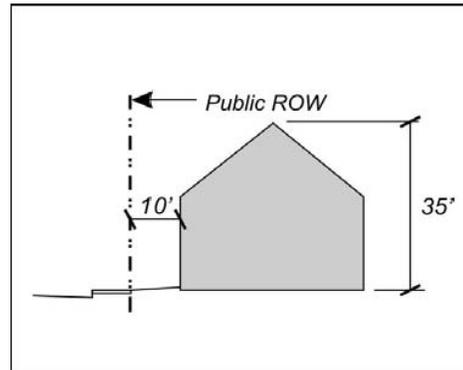


Table 2-7 - RL District Standards

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 9C.42.030 (Accessory Structures)	
Streamside setbacks	See Chapter 9C.59	

Floor area ratio (FAR) - <i>Maximum allowable FAR. See the definition and illustration of FAR in Article 10 (Glossary)</i>		
Maximum FAR	0.50	N/A

Maximum site coverage - <i>Maximum percentage of site area to be occupied by structures, parking, driveways, and pavement.</i>		
Maximum coverage	50%	Proportional to reduced lot area (see Section 9C.30.060)

Height limit - <i>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.</i>		
Maximum height	35 ft.	38 ft

Landscaping - See Chapter 9C.34 (Landscaping)
Parking - See Chapter 9C.36 (Parking and Loading)
Signs - See Chapter 9C.38 (Signs)

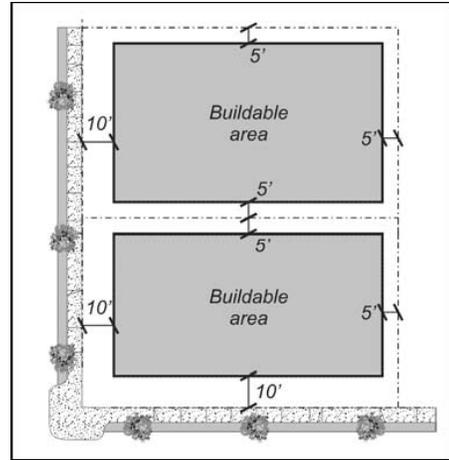


Figure 2-3 - Setback Requirements

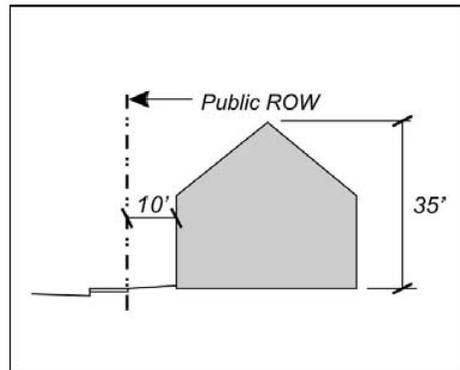


Figure 2-4 - Building Height and Profile

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 9C.42.030 (Accessory Structures)	
Streamside setbacks	See Chapter 9C.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 9C.30.060)
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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
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Landscaping - See Chapter 9C.34 (Landscaping)

Parking - See Chapter 9C.36 (Parking and Loading)

Signs - See Chapter 9C.38 (Signs)

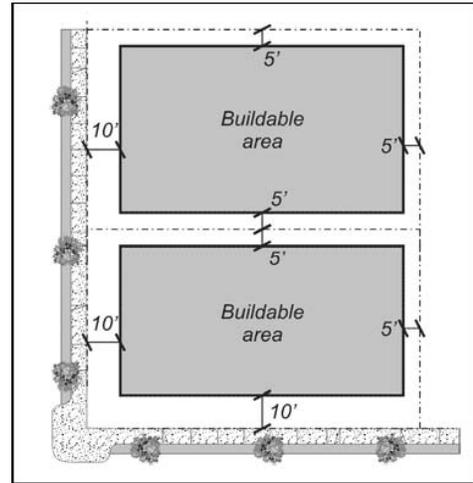


Figure 2-5 - Setback Requirements

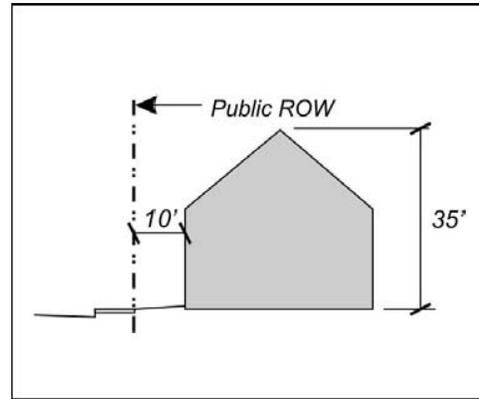


Figure 2-6 - Building Height and Profile

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 9C.42.030 (Accessory Structures)	
Streamside setbacks	See Chapter 9C.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
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Landscaping - See Chapter 9C.34 (Landscaping)
Parking - See Chapter 9C.36 (Parking and Loading)
Signs - See Chapter 9C.38 (Signs)

Figure 2-7 - Setback Requirements

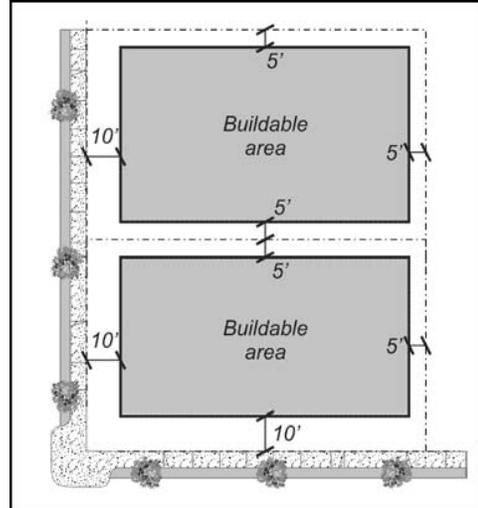
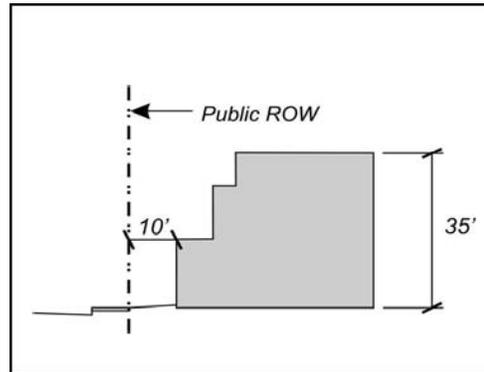


Figure 2-8 - Building Height and Profile



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 9C.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:

- 9C.26.010 - Purpose
- 9C.26.020 - Purposes of Commercial, Industrial, and Public Facility Zoning Districts
- 9C.26.030 - Commercial, Industrial, and Public Facility District Allowable Land Uses
- 9C.26.040 - Commercial, Industrial, and Public Facility District Parcel and Density Standards
- 9C.26.050 - Commercial, Industrial, and Public Facility District Site Planning and Building Standards
- 9C.26.060 - Commercial, Industrial, and Public Facility District Land Use Limitations
- 9C.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 9C.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 and other suitable locales, such as along highway segments and major arterials in proximity to visitor attractions such as the Arcata Marsh and Wildlife Sanctuary, and the Plaza Area that are appropriate for uses that primarily serve the traveling public, including lodging, restaurants, ~~auto sales centers,~~ and service stations. Other compatible commercial uses intended for serving both visitors to the area, travelers in transit, and residents, include convenience stores,

specialty retail sales and services primarily intended for the care, comfort, and support of coastal visitors and the traveling public, certain highway commercial, transient related motor vehicle services, 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 9C.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		PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
		CC	CG	CV	CM	IL	IG	PF	
		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 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	—	9C.42.160
Recycling - Reverse vending machines	—	P	P	—	—	P	P	—	9C.42.160
Recycling - Scrap and dismantling yards	—	—	—	—	—	—	MUP	—	9C.42.160
Recycling - Small collection facility	—	MUP	—	—	—	MUP	P	P	9C.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	9C.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 9C.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 9C.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						
	PERMIT REQUIRED BY DISTRICT						
LAND USE (1)	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	—	<u>9C.40</u>
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	—	—	<u>9C.42.090</u>
Live/work unit	P	P	—	P	P	—	—	<u>9C.42.100</u>
Multi-family housing	P(3)	P(3)	—	P(3)	P	—	—	<u>9C.42.110</u>
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 9C.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 9C.42.110.

LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	CC	CG	CV	CM	IL	IG	PF	
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								
RETAIL TRADE (2)								
Accessory retail uses	P	P	P	P	P	—	P	9C.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	—	—	—	—	9C.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	9C.42.140
Mobile home, boat, or RV sales	—	—	MUP	—	P	—	—	
Outdoor retail sales and activities	P	P	MUP	P	MUP	—	—	9C.42.140
Pet shop	—	P	—	P	P	—	—	
Restaurant, café, coffee shop	P	P	P	P	MUP	MUP	MUP	
Restaurant, formula	—	P	P	—	—	—	—	9C.42.164
Second hand store	P	P	P	P	—	—	—	
Service station	—	MUP	MUP	MUP	MUP	—	—	9C.42.180
Shopping center	MUP	MUP	—	MUP	—	—	—	
Warehouse retail	—	UP	MUP	—	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 9C.26.060.

CITY OF ARCATA MUNICIPAL CODE – TITLE 9 – LAND USE CODE

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	
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	9C.42.070
Child day care - large or small family day care home	P	P	—	P	P	—	—	
Drive-through service	—	MUP	MUP	MUP	—	—	—	9C.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	—	—	—	9C.42.060
Lodging - Hostel	MUP	MUP	MUP	MUP	—	—	—	
Lodging - Hotel or motel	P	MUP	P	MUP	—	—	—	
Lodging - Recreational vehicle (RV) park	—	—	MUP	—	—	—	—	
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	—	—	—	

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	9C.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	9C.44
Transit station or terminal	MUP	MUP	MUP	MUP	MUP	MUP	MUP	
Truck or freight terminal	—	—	UP	—	MUP	MUP	—	
Truck stop	—	—	UP	—	MUP	MUP	—	9C.42.164
Utility facility	—	—	—	—	MUP	MUP	P	
Utility infrastructure	P	P	P	P	P	P	P	

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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 9C.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

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 9C.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
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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
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Landscaping - See Chapter 9C.34 (Landscaping)

Parking - See Chapter 9C.36 (Parking and Loading)

Signs - See Chapter 9C.38 (Signs)

Special Standards - See Section 9C.26.060.A

Figure 2-9 - Setback Requirements

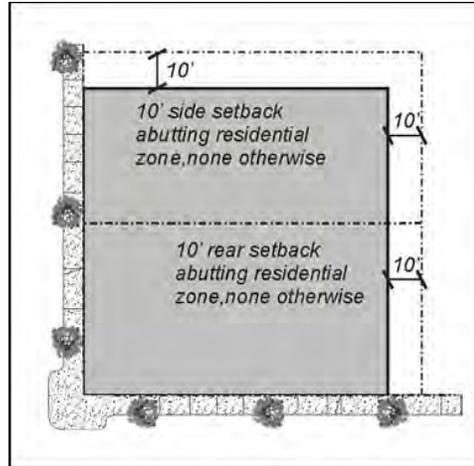


Figure 2-10 - Building Height and Profile

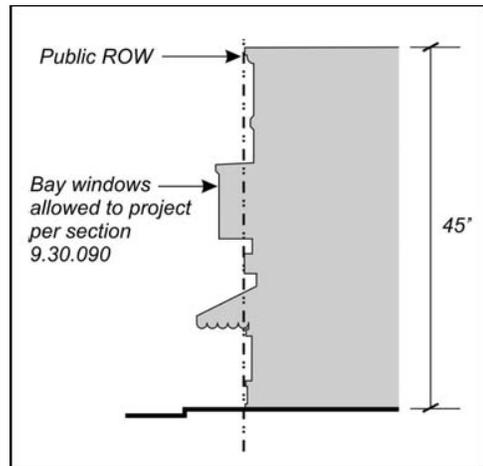


Table 2-13 - CG District Standards

Development Standard	CG Zone Requirement
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Setbacks - <i>Minimum and, where noted, maximum setbacks required. See Section 9.30.090 for exceptions to these requirements. See Figure 2-11.</i>	
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 <u>9C.42.030</u> (Accessory Structures)

Floor area ratio (FAR) - <i>Maximum allowable FAR. See the definition and illustration of FAR in Article 10 (Glossary)</i>	
Maximum FAR	2.0

Height limit - <i>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.</i>	
Maximum height	35 ft

Landscaping - See Chapter <u>9C.34</u> (Landscaping)
Parking - See Chapter <u>9C.36</u> (Parking and Loading)
Signs - See Chapter <u>9C.38</u> (Signs)
Special Standards - See Section <u>9C.26.060.A</u>

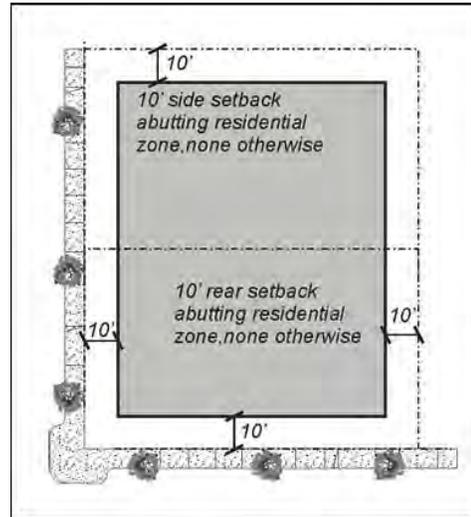


Figure 2-11 - Setback Requirements

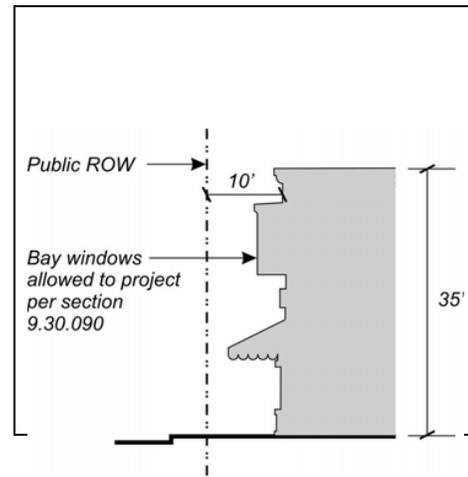


Figure 2-12 - Building Height and Profile

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 9C.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 9C.34 (Landscaping)
Parking - See Chapter 9C.36 (Parking and Loading)
Signs - See Chapter 9C.38 (Signs)
Special Standards - See Sections 9C.26.060.A&B.

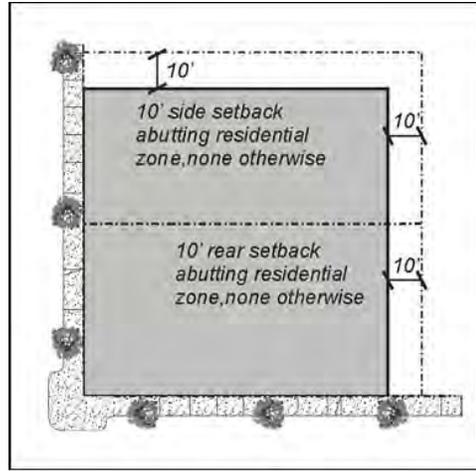


Figure 2-13 - Setback Requirements

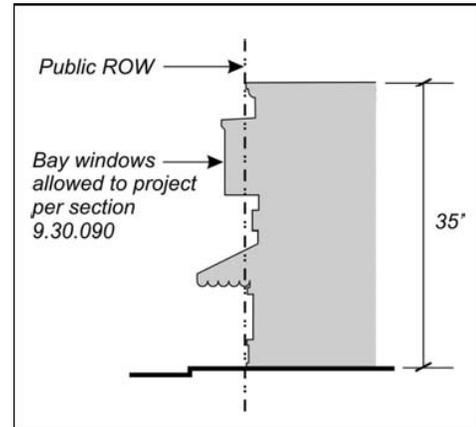


Figure 2-14 - Building Height and Profile

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 9C.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 9C.34 (Landscaping)	
Parking - See Chapter 9C.36 (Parking and Loading)	
Signs - See Chapter 9C.38 (Signs)	
Special Standards - See Section 9C.26.060.A.	

Figure 2-15 - Setback Requirements

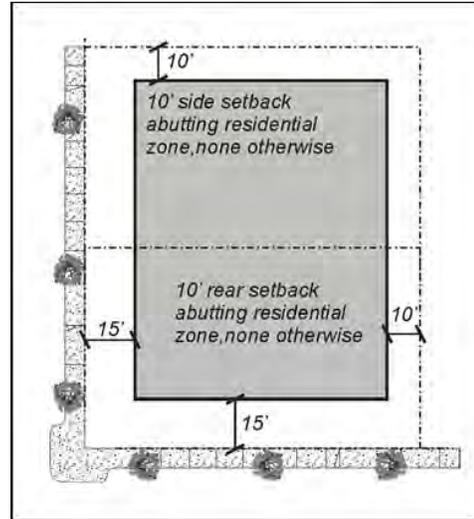


Figure 2-16 - Building Height and Profile

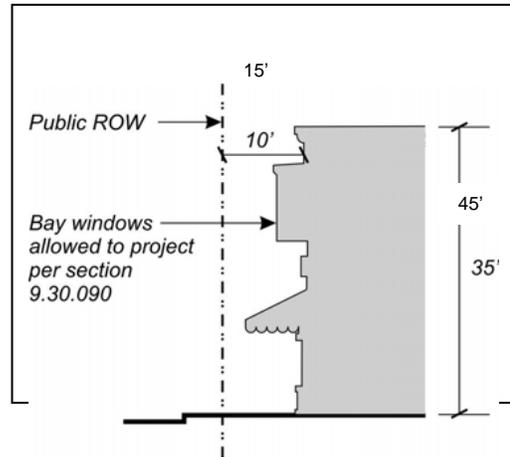


Table 2-16 - IL District Standards

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 9C.42.030 (Accessory Structures)

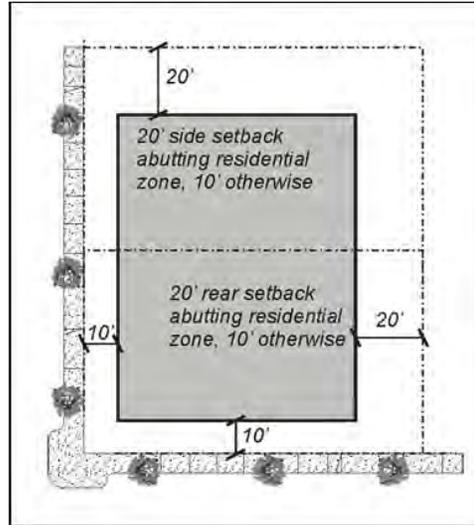


Figure 2-17 - Setback Requirements

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
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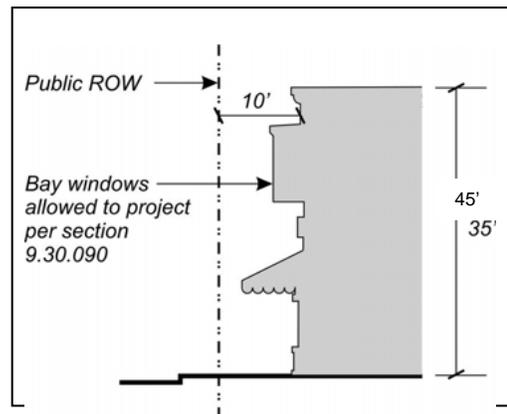


Figure 2-18 - Building Height and Profile

Landscaping - See Chapter 9C.34 (Landscaping)
Parking - See Chapter 9C.36 (Parking and Loading)
Signs - See Chapter 9C.38 (Signs)
Special Standards - See Section 9C.26.060.A.

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 9C.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 9C.34 (Landscaping)
Parking - See Chapter 9C.36 (Parking and Loading)
Signs - See Chapter 9C.38 (Signs)

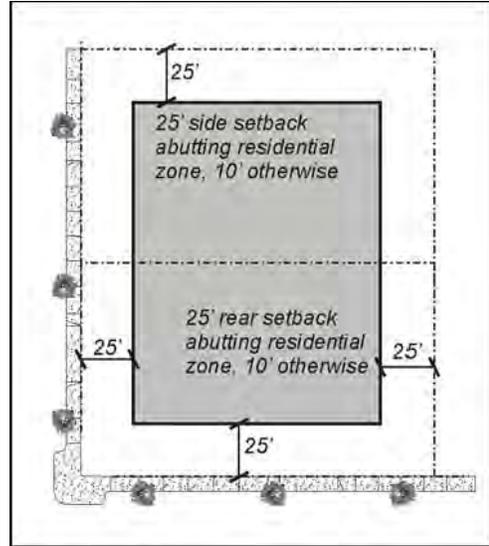


Figure 2-19 - Setback Requirements

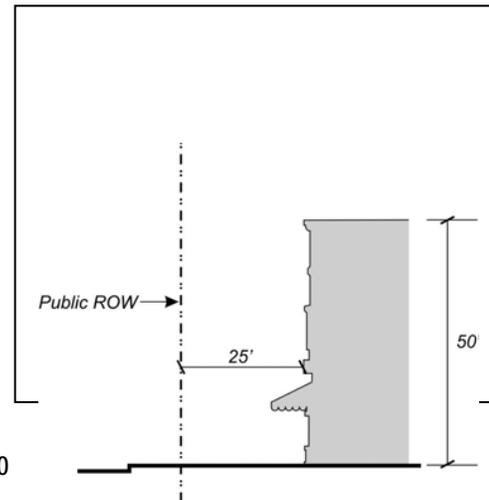


Figure 2-20 - Building Height and Profile

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 9C.34 (Landscaping)

Parking - See Chapter 9C.36 (Parking and Loading)

Signs - See Chapter 9C.38 (Signs)

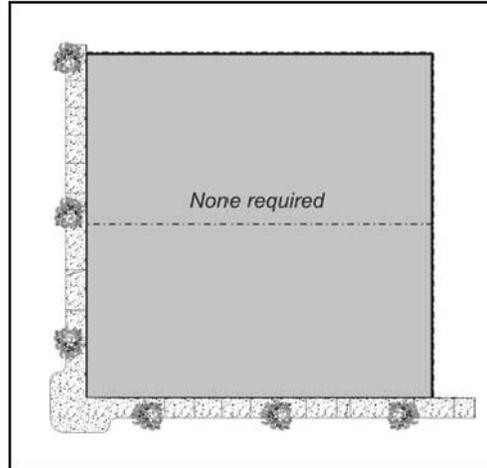


Figure 2-21 - Setback Requirements

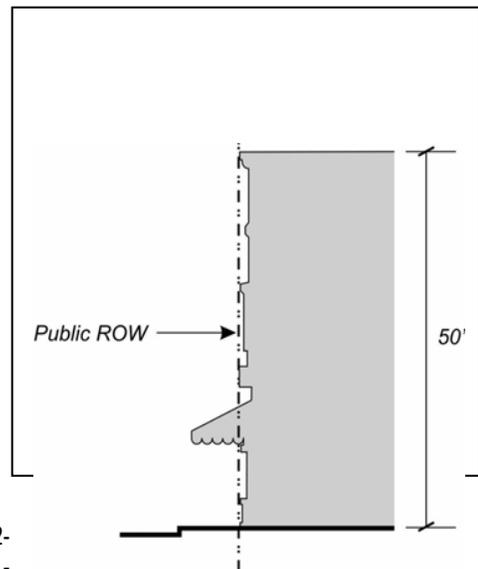


Figure 2-22 - Building Height and Profile

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 ~~9C~~ 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, and 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, and 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	Ciuntoli 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	Ciuntoli Lane/Valley East Area/Zanzi site	Planned Development for entire property to minimize access points on Ciuntoli, 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

CITY OF ARCATA MUNICIPAL CODE – TITLE 9 – LAND USE CODE

		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: <ol style="list-style-type: none"> 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 507 191 032, 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:

- 9C.28.010 - Purpose
- 9C.28.020 - Applicability of Combining Zones
- 9C.28.030 - Coastal Zone (:CZ) Combining Zone
- 9C.28.040 - Historic Landmark (:HL) Combining Zone
- 9C.28.050 - Natural Hazards (:NH) Combining Zone
- 9C.28.060 - Neighborhood Conservation Area (:NCA) Combining Zone
- 9C.28.070 - Planned Development (:PD) Combining Zone
- 9C.28.080 - Plaza Area (:PA) Combining Zone
- 9C.28.090 - Special Considerations (:SC) Combining Zone
- 9C.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 9C.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 9C.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 9C.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 only applied to property through the rezoning process (Chapter 9C.92) or through the adopted zoning map subject to the procedures set forth in Chapter 9.92 (Amendments).
- 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 9C.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 **requiring a coastal development permit** shall comply with the requirements of the Coastal Land Use Plan and this Coastal Land Use Code identified as being applicable within the Coastal Zone (~~e.g., Chapters 9.22 and 9.59~~) (i.e., see Section 9C.10.020.C), the 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 9C.53 (Historical Resource Preservation) and Chapter 9.92 (Amendments), and may be combined with any primary zoning district established by Section 9C.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 9C.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 9C.12.020 (Zoning Map and Zoning Districts), and shall, subject to the procedures set forth in Chapter 9.92 (Amendments), 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 9C.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 9C.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 9C.62 (Geologic Hazard Review).
4. **Special flood hazard areas.** Zone A as delineated on the Flood Insurance Rate Map (FIRM), adopted by reference and in areas subject to inundation from tsunami runup as depicted on maps cooperatively prepared by the California Geologic Survey, California Department of Emergency Management, and the Tsunami Research Center of the University of Southern California, as specified in Chapter 9C.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 9C.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 9C.62 - Geologic Hazard Review), and/or Flood Hazard Review process (Chapter 9C.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 9C.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 9C.22.030 (Agricultural and Resource District Allowable Land Uses), and Chapter 9C.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 9C.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 9C.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 9C.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 9C.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 9C.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 9C.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 9C.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 9C.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 9C.24.070 (Residential Special Considerations), and 9C.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 9C.24.070 or Section 9C.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 9C.59 (Environmentally Sensitive Habitat Area Protection and Preservation) and Chapter 9.92 (Amendments), and may be combined with any primary zoning district established by Section 9C.12.020 (Zoning Map and Zoning Districts) subject to the procedures set forth in Chapter 9.92 (Amendments).~~
- ~~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 9C.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

NOTE: CHAPTER 9.32 IS NOT AN APPLICABLE PART OF THE COASTAL LAND USE CODE FOR PURPOSES OF THE GOVERNANCE OF THE ISSUANCE OR APPEAL OF COASTAL PERMITS

Chapter 9.30 - Standards for all Development and Land Uses	3-3
9.30.010 - Purpose	3-3
9.30.020 - Applicability	3-3
9.30.030 - Fences, Walls, and Screening	3-4
9.30.040 - Height Limits and Exceptions	3-6
9.30.050 - Noise Standards	3-8
9.30.060 - Site Coverage Exception	3-12
9.30.070 - Outdoor Lighting	3-13
9.30.080 - Performance Standards	3-13
9.30.090 - Setback Requirements and Exceptions	3-15
9.30.100 - Solid Waste/Recyclable Materials Storage	3-21
Chapter 9.31 - Density Bonuses	3-23
9.31.010 - Purpose	3-23
9.31.020 - Eligibility for Bonus, Incentives or Concessions	3-23
9.31.030 - Allowed Density Bonuses	3-24
9.31.040 - Allowed Incentives or Concessions	3-26
9.31.060 - Bonus and Incentives for Housing with Child Care Facilities	3-28
9.31.070 - Continued Availability	3-29
9.31.080 - Location and Type of Designated Units	3-30
9.31.090 - Processing of Bonus Requests	3-30
9.31.100 - Control of Resale	3-30
9.31.110 - Judicial Relief, Waiver of Standards	3-31
Chapter 9.32 - Affordable Housing Requirements	3-33
9.32.010 - Purpose and Intent	3-33
9.32.020 - Definitions	3-33
9.32.030 - Inclusionary Housing Requirement	3-33
9.32.040 - Standards for Inclusionary Units	3-35
9.32.050 - Incentives, Concession, Assistance, and Subsidies	3-36
9.32.070 - Alternatives to Inclusionary Units	3-39
9.32.080 - Term of Affordability for Rental Inclusionary Units - Rent Costs	3-40
9.32.090 - Term of Affordability and Resale of For-Sale Units	3-41
9.32.100 - Income, Occupancy, Hazard Insurance, and Maintenance Requirement	3-42
9.32.110 - Administration of Inclusionary Units	3-43
9.32.120 - Administrative Fees	3-46
9.32.130 - Takings Determination	3-46
9.32.140 - Enforcement and Penalties	3-47

Chapter 9.34 - Landscaping Standards.....	3-49
9.34.010 - Purpose	3-49
9.34.020 - Applicability.....	3-49
9.34.030 - Definitions	3-50
9.34.040 - Landscape and Irrigation Plans	3-50
9.34.050 - Landscape Location Requirements	3-50
9.34.060 - Landscape Standards	3-52
9.34.070 - Maintenance of Landscape Areas	3-54
Chapter 9.36 - Parking and Loading.....	3-55
9.36.010 - Purpose	3-55
9.36.020 - Applicability.....	3-55
9.36.030 - General Parking Regulations.....	3-56
9.36.040 - Number of Parking Spaces Required	3-57
9.36.050 - Disabled/Handicapped Parking Requirements	3-59
9.36.060 - Bicycle Parking	3-60
9.36.070 - Motorcycle Parking	3-60
9.36.080 - Adjustment of Parking Requirements	3-61
9.36.090 - Parking Design and Development Standards	3-63
9.36.100 - Driveways and Site Access.....	3-68
9.36.110 - Loading Space Requirements.....	3-70
Chapter 9.38 - Signs.....	3-73
9.38.010 - Purpose.....	3-73
9.38.020 - Applicability.....	3-73
9.38.030 - Sign Permit and Master Sign Plan Requirements	3-74
9.38.050 - Exemptions from Sign Permit Requirements	3-77
9.38.060 - Prohibited Signs.....	3-80
9.38.070 - General Requirements for All Signs.....	3-81
9.38.080 - Sign Standards by Zone	3-85
9.38.090 - Standards for Specific Sign Types.....	3-86
9.38.100 - Nonconforming Signs.....	3-89
9.38.110 - Amortization.....	3-90
9.38.120 - Judicial Review	3-90

CHAPTER 9.30 -STANDARDS FOR ALL DEVELOPMENT AND LAND USES

Sections:

- 9.30.010 - Purpose
- 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 between the standards in any of the Coastal Land Use Code Articles, including Articles 2, 3, 4, and 5, the most stringent standard protective of coastal resources 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.)
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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.

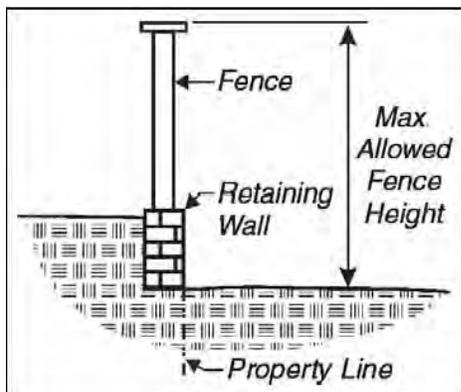


Figure 3-1 Fence Height Measurement

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. The granting of any exception to height standards pursuant to this Section does not obviate the requirement for making findings of consistency with the policies and standards of the City's Local Coastal Program including but not limited to the protection of visual resources as set forth in Coastal Land Use Plan Policy Group C-D-1 and Coastal Land Use Code Chapter 9C.68 (Visual Resources Protection).
- 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.

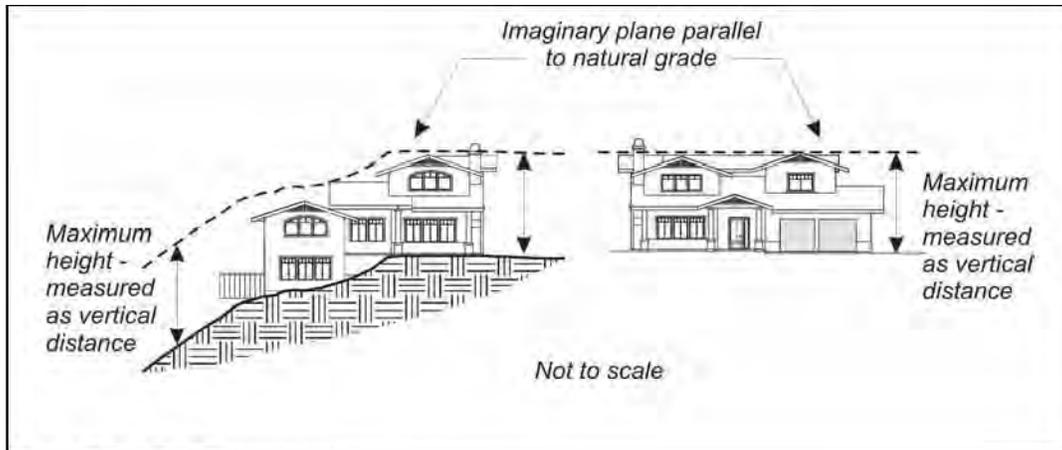


Figure 3-2 - Height Measurement

- 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.

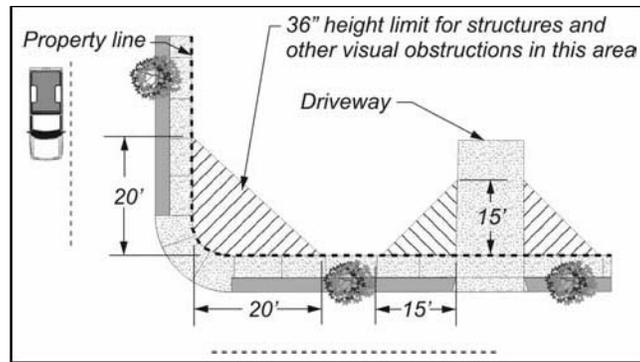


Figure 3-3 - Required Vision Clearance Area

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., $1.33 \times 0.50 = 67\%$ 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 exterior lighting shall be placed or erected which results in an illumination level greater than one-half foot-candle being cast into an Environmentally Sensitive Habitat Area.
 - ~~6.~~ 6. 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.

The granting of any setback exception pursuant to this Section does not obviate the requirement for finding such an exception consistent with the requirements of the Coastal Land Use Plan and Chapter 9C.68 of this Coastal Land Use Code with respect to the protection of visual resources.

- 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.

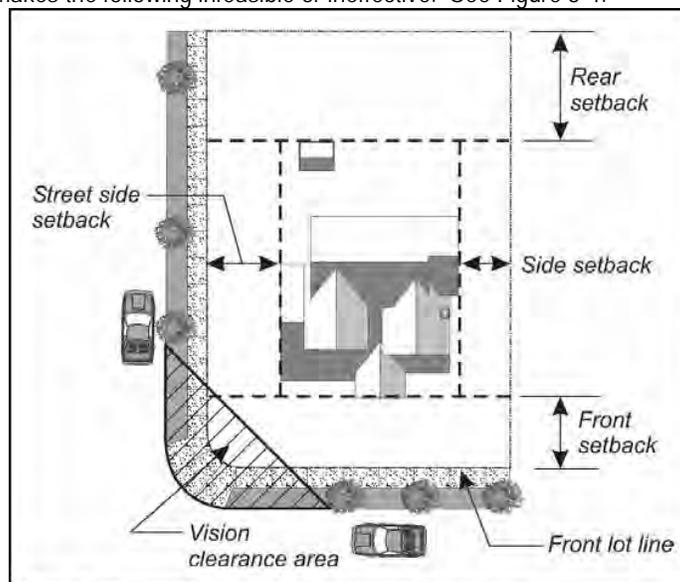


Figure 3-4 - Location and Measurement of Setbacks

- 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.

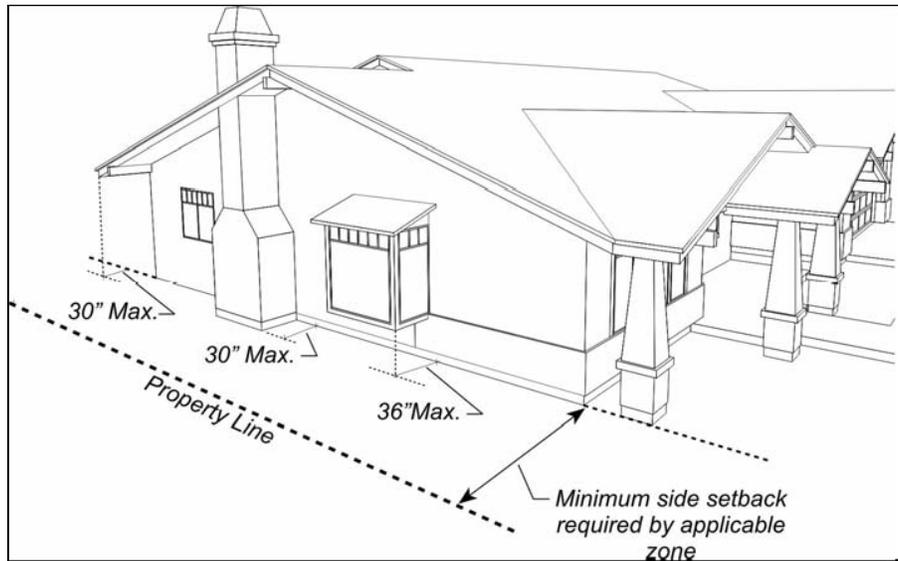


Figure 3-5 - Examples of Allowed Projections into Side Setback

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). However, nothing in this Chapter shall supersede or in any way alter or lessen the effect or application of the Coastal Act or the Coastal Land Use Plan and Coastal Land Use Code provisions certified by the Coastal Commission to implement the Coastal Act.

- 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. Nothing in this Chapter shall supersede or in any way alter or lessen the effect or application of the Coastal Act or the Coastal Land Use Plan ands Coastal Land Use Code provisions certified by the Coastal Commission to implement the Coastal Act.

- 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(l) 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. The City shall not grant a density bonus in an amount that would result in development inconsistent with the policies and standards of its Local Coastal Program, including but not limited to development which would: (1) interfere with public access; (2) adversely impact coastal recreational opportunities; (3) result in adverse significant impacts to coastal water quality, environmentally sensitive areas, coastal agriculture, or archaeological or paleontological resources; (4) exposure persons or property to significant natural or man-made risks of geologic or other forms of instability, flooding, or wildfire; or (5) adversely impact service capacities in a manner that would preclude development of coastal-dependent and/or other coastal priority uses.
- 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~~ any 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; or
 3. The density bonus would lessen or alter the application of Coastal Land Use Plan or Coastal Land Use Code provisions necessary to protect coastal resources consistent with the provisions of the Coastal Act.
- 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.
3. 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, or that the density bonus would lessen or alter the application of Coastal Land Use Plan or Coastal Land Use Code provisions necessary to protect coastal resources consistent with the provisions of the Coastal Act.

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.
3. Supersede or in any way alter or lessen the effect of application of the Coastal Act or the Coastal Land Use Plan and Coastal Land Use Code provisions certified by the Coastal Commission to implement the Coastal Act.

CHAPTER 9.32 -AFFORDABLE HOUSING REQUIREMENTS

NOTE: CHAPTER 9.32 IS NOT AN APPLICABLE PART OF THE COASTAL LAND USE CODE FOR PURPOSES OF THE GOVERNANCE OF THE ISSUANCE OR APPEAL OF COASTAL PERMITS

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:

CITY OF ARCATA MUNICIPAL CODE – TITLE 9 – LAND USE CODE

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. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or listed as a “noxious weed” by the governments of the State of California or the United States shall be approved as part of any proposed landscaping.
 - ~~b. c.~~ Fire prevention shall be addressed on sites in any wooded or vegetated area of the City identified by the Fire Department as being fire prone, by 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. **Anticoagulant rodenticides prohibited. Rodenticides containing any anticoagulant compounds, including, but not limited to, bromadiolone or diphacinone shall not be used.**
- ~~C.~~ **D. Enforcement.** Failure to maintain landscape areas in compliance with this Section shall be deemed a nuisance, and shall be subject to abatement in compliance with the Municipal Code, and/or the applicable planning permit may be revoked.

CHAPTER 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 Use Type	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.**
- 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.
 - 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.

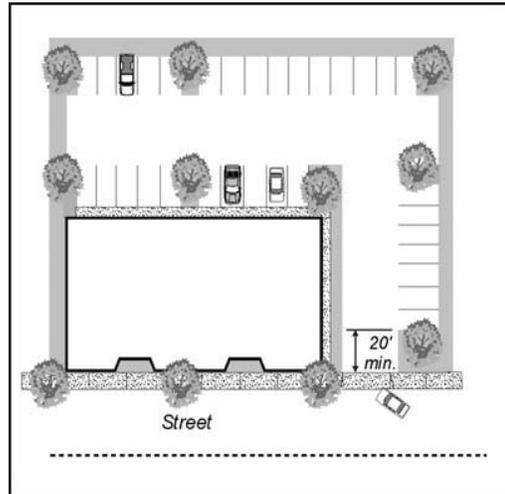


Figure 3-6 - Queuing Area

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.
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

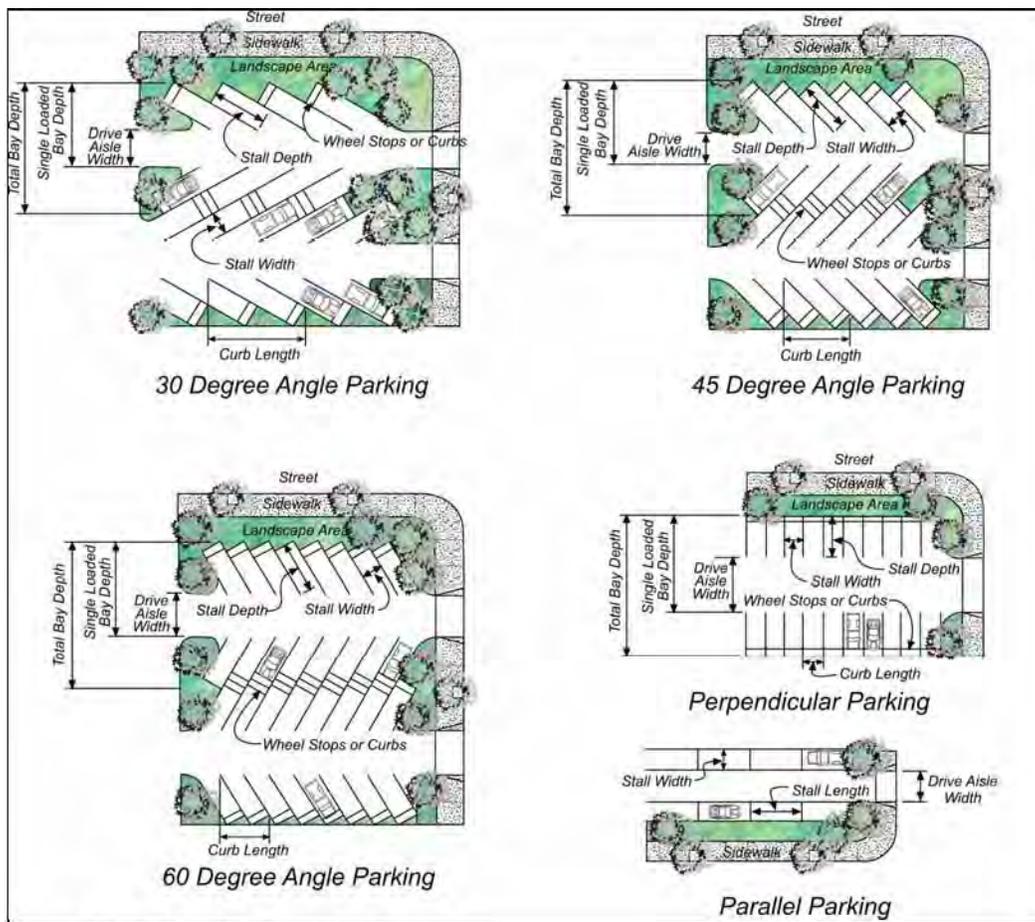


Figure 3-7 - Parking Lot Dimensions

- 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.

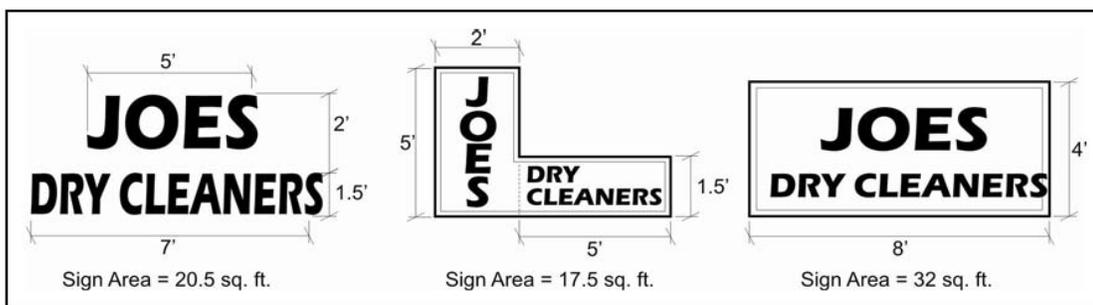


Figure 3-8 - Sign Area Measurement

- 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.

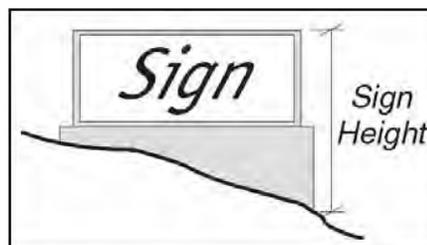


Figure 3-9 - 3-D Sign Measurement

- 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.

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.

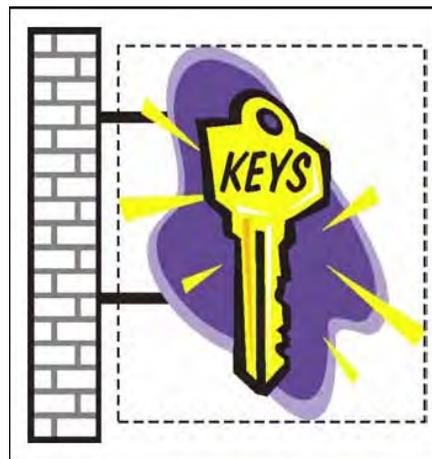


Figure 3-10 – Sign Height Measurement

- 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 3-12 - Awning Sign

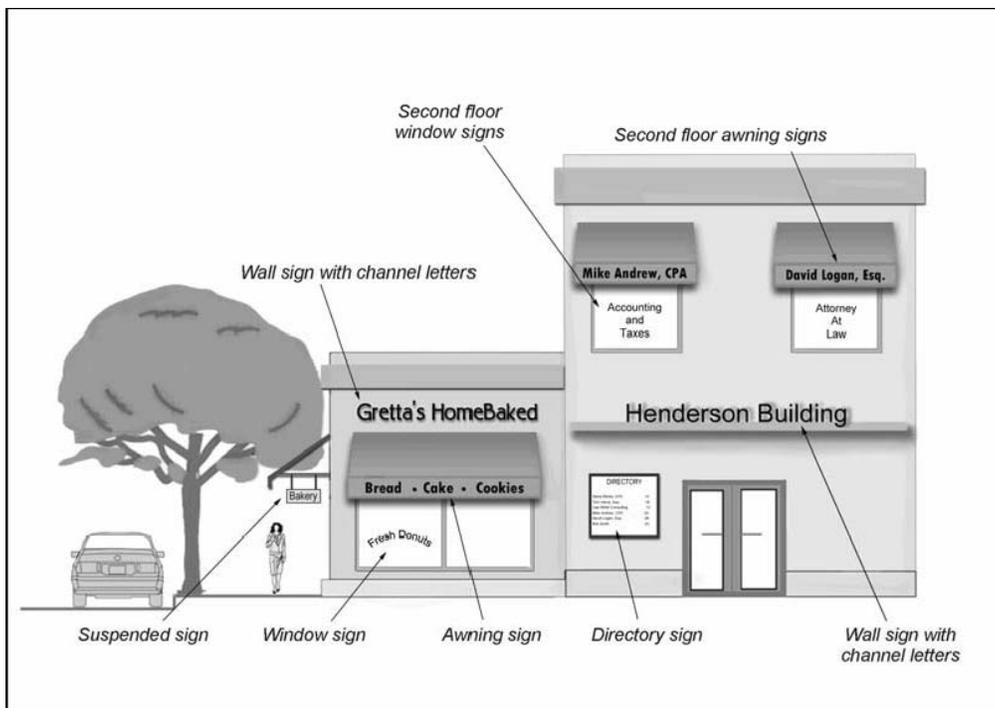


Figure 3-11 - Examples of Sign Types

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.

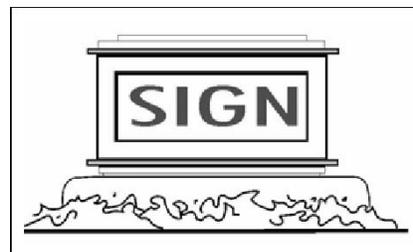


Figure 3-13 - Freestanding Sign

- 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.
- 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 districts, 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.



Figure 3-14 - Projecting Sign

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).



Figure 3-15 – Use of Icons/Symbols

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.
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.

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.



Figure 3-16 - Wall Sign

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.

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.

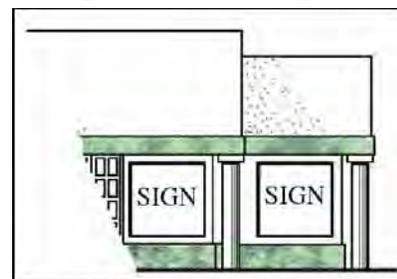


Figure 3-17 - Window Sign

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.

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

NOTE: CHAPTER 9.40, SECTIONS 9.42.020 THROUGH 9.42050, 9.42.070 THROUGH 9.42.164, AND 9.42.180 OF CHAPTER 9.42 ARE IS NOT AN APPLICABLE PART OF THE COASTAL LAND USE CODE FOR PURPOSES OF THE GOVERNANCE OF THE ISSUANCE OR APPEAL OF COASTAL PERMITS

Chapter 9.40 - Sex-Oriented Business Regulations	4-3
9.40.010 - Purpose.....	4-3
9.40.020 - Permit Requirements	4-3
9.40.030 - Specific Regulations	4-3
Chapter 9.42 - Standards for Specific Land Uses	4-5
9.42.010 - Purpose and Applicability.....	4-5
9.42.020 - Accessory Retail and Service Uses	4-6
9.42.030 - Accessory Structures	4-6
9.42.040 - Accessory Uses	4-7
9.42.050 - Animal Keeping.....	4-8
9.42.060 - Bed and Breakfast Inns (B&Bs)	4-11
9.42.070 - Child Day Care Facilities.....	4-12
9.42.080 - Drive-Through Facilities	4-14
9.42.090 - Home Occupations	4-15
9.42.100 - Live/Work Units.....	4-17
9.42.110 - Mixed Use Projects	4-20
9.42.120 - Mobile Homes and Mobile Home Parks.....	4-22
9.42.130 - Multi-Family and Small Lot Single-Family Projects	4-24
9.42.140 - Outdoor Retail Displays and Sales	4-27
9.42.150 - Outdoor Storage	4-30
9.42.160 - Recycling Facilities	4-30
9.42.164 - Formula Restaurants	4-33
9.42.170 - Second Units.....	4-35
9.42.180 - Service Stations	4-36
9.42.190 - Windmills for Electricity Generation	4-39
Chapter 9.44 - Telecommunications Facilities	4-41
9.44.010 – Purpose.....	4-41
9.44.020 – Definitions	4-41
9.44.030 - Applicability	4-41
9.44.040 - Permit Requirements	4-42
9.44.050 - Limitations on Location	4-46
9.44.060 - Facility Design and Development Standards	4-47
9.44.070 - Operation and Maintenance Standards	4-48
9.44.080 - Discontinuance and Site Restoration.....	4-49

CHAPTER 9.40 - SEX-ORIENTED BUSINESS REGULATIONS

NOTE: CHAPTER 9.40 IS NOT AN APPLICABLE PART OF THE COASTAL LAND USE CODE FOR PURPOSES OF THE GOVERNANCE OF THE ISSUANCE OR APPEAL OF COASTAL PERMITS

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

NOTE: SECTIONS 9.42.020 THROUGH 9.42050, 9.42.070 THROUGH 9.42.164, AND 9.42.180 OF CHAPTER 9.42 ARE NOT AN APPLICABLE PART OF THE COASTAL LAND USE CODE FOR PURPOSES OF THE GOVERNANCE OF THE ISSUANCE OR APPEAL OF COASTAL PERMITS

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
- 9.42.100 - 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 ail 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

CITY OF ARCATA MUNICIPAL CODE – TITLE 9 – LAND USE CODE

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 for "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).

- 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

CITY OF ARCATA MUNICIPAL CODE – TITLE 9 – LAND USE CODE

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 a~~ residential zoning district other than Residential - Very Low Density (RVL) 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 a~~ residential zoning district other than Residential - Very Low Density (RVL) 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 a~~ residential zoning district other than Residential - Very Low Density (RVL).
- 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.

CITY OF ARCATA MUNICIPAL CODE – TITLE 9 – LAND USE CODE

- 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.
- 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.

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.

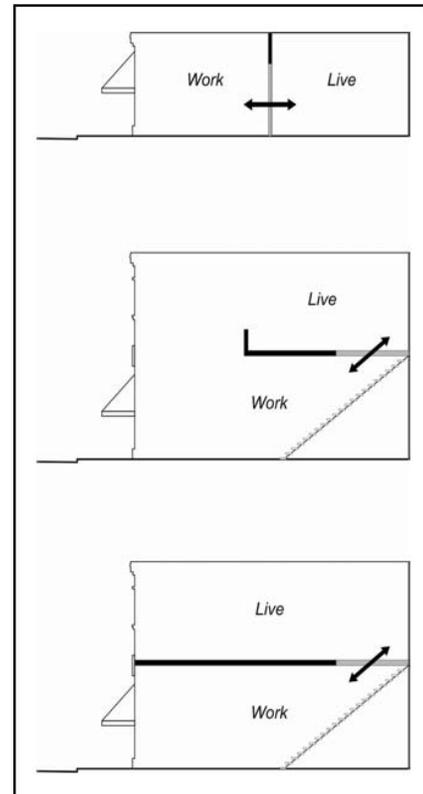


Figure 4-1 - Live/Work Arrangement

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.

9.42.110 - 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.



Figure 4-2 - Location of Residential in a Mixed Use Project

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).
 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.
 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.

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	

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

CITY OF ARCATA MUNICIPAL CODE – TITLE 9 – LAND USE CODE

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),~~ district: 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.

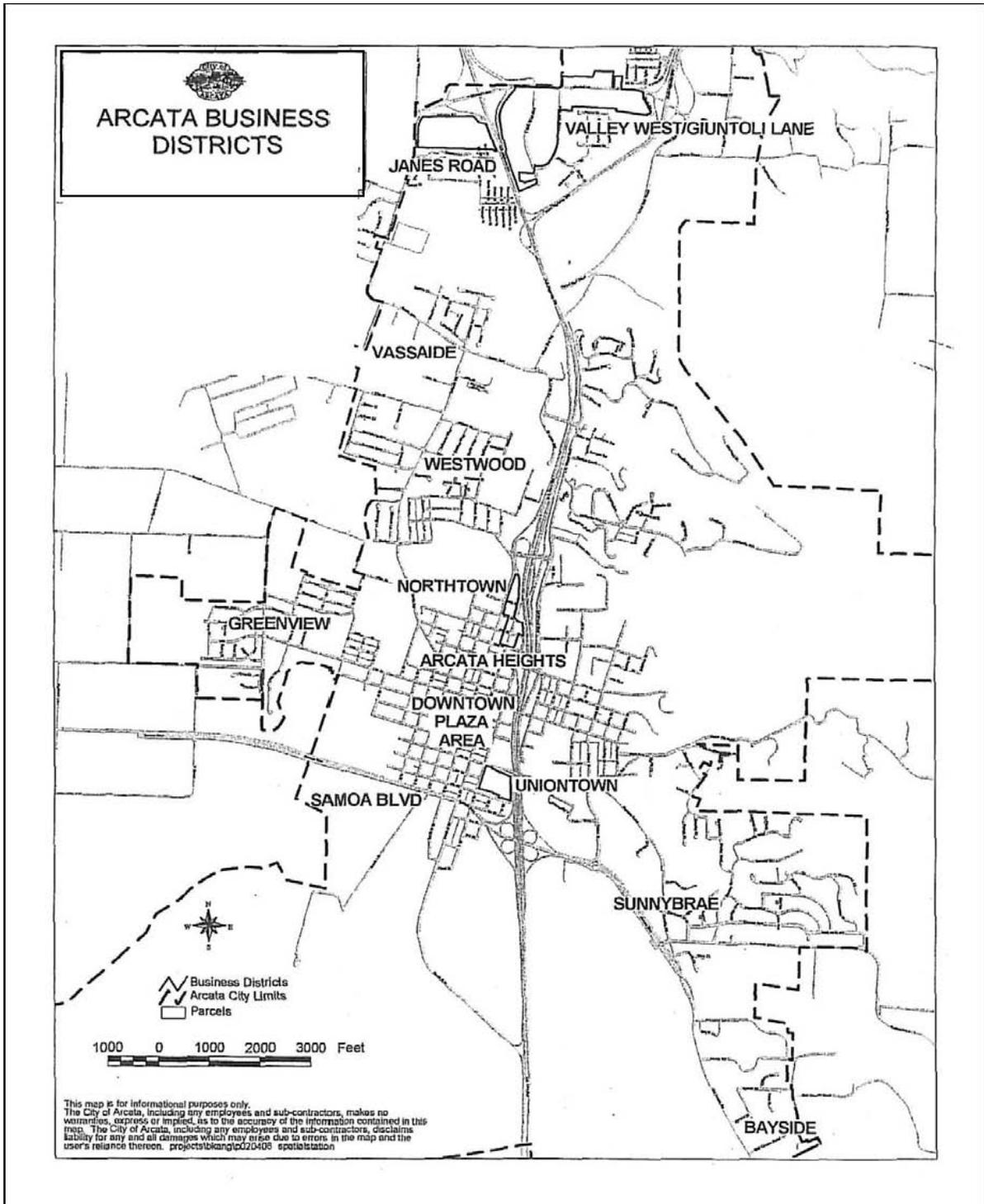


Figure 4-3 - Arcata Business Districts

9.42.170 - Second Units

This Section establishes standards for residential second units, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). Nothing in this Chapter shall authorize the City to supersede or in any way alter or lessen the effect or application of either the Coastal Land Use Plan or Coastal Land Use Code sections necessary to protect coastal resources consistent with the provisions of the Coastal Act.

- 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).
- H. **Supplementary findings for administrative approval in coastal zone. A coastal permit for a second residential unit may be administratively authorized without a discretionary hearing provided:**
 - 1. **The parcel on which the second unit would be sited is twice the minimum lot size of the zoning district in which it is located; and**

2. The development of the second unit would be consistent with all policies and standards of the certified LCP, including but not limited to:
 - a. The second unit would not obstruct public access to and along the coast, or public trails.
 - b. The second unit would not significantly obstruct public views from any public road, trail, or public recreation area to, and along the coast and would be compatible with the character of the area.
 - c. All development associated with the second unit would provide adequate buffers from environmentally sensitive habitat areas consistent with all local coastal program requirements.
 - d. The means of accommodating the second unit: (1) would not have an adverse effect on coastal resources (2) would ensure adequate services will be provided to serve the proposed development; and (3) would not displace Coastal Act priority uses. If the means for accommodating a second unit will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace priority uses, the second unit shall be denied.

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. Nothing in this Chapter shall be construed to authorize the City, or to authorize the Coastal Commission in hearing an appeal of a Coastal Permit, to exert regulatory authority over the development of telecommunications facilities that is otherwise preempted by the Telecommunications Act of 1996 (P.L. 104-104, 110 Stat. 56 (1996)).
- 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. The securing of such Use Permit does not obviate the requirements of this Coastal Land Use Code to obtain a Coastal Permit authorization for the facilities consistent with all requirements of the Coastal Land Use Plan and Coastal Land Use Code.

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

NOTE: CHAPTERS 9.54, and 9.56 ARE NOT AN APPLICABLE PART OF THE COASTAL LAND USE CODE FOR PURPOSES OF THE GOVERNANCE OF THE ISSUANCE OR APPEAL OF COASTAL PERMITS

Chapter 9.50 - Agricultural Preservation - Right-to-Farm.....	5-3
9.50.010 - Purpose.....	
<u>9.50.020 - Applicability.</u>	
<u>9.50.030 - Coastal Permit application contents.</u>	
<u>9.50.040 - Supplementary findings for development within or adjacent to agricultural lands.</u>	
<u>9.50.050 - Development standards.</u>	
9.50.060 <u>9.50.060</u> - Relationship to Nuisance	
9.50.070 <u>9.50.070</u> - Disclosure Requirement	
Chapter 9.52 - Hillside Development.....	5-5
9.52.010 - Purpose.....	5-5
9.52.020 - Applicability.....	5-5
9.52.030 - Permit Requirements.....	5-6
9.52.040 - Hillside Subdivision Standards.....	5-6
9.52.050 - Site Planning and Development Standards.....	5-6
9.52.060 - Building Design Standards.....	5-10
9.52.070 - Hillside Development Permit.....	5-11
Chapter 9.53 - Historical Resource Preservation.....	5-13
9.53.010 - Purpose.....	5-13
9.53.020 - Applicability.....	5-14
9.53.030 - Review Authority.....	5-15
9.53.040 - Historical Resources Eligibility, Listing and Management.....	5-17
9.53.050 - Alteration of Historic Structures, Districts and Neighborhoods.....	5-21
9.53.060 - Demolition or Removal.....	5-23
9.53.070 - Rehabilitation Incentives.....	5-25
9.53.080 - Duty to Maintain and Repair.....	5-27
9.53.090 - Unsafe or Dangerous Condition.....	5-27
9.53.100 - Inadvertent Archaeological Discoveries.....	5-28
Chapter 9.54 - Resource Conservation.....	5-33
9.54.010 - Purpose.....	5-33
9.54.020 - Applicability.....	5-33
9.54.030 - Energy Conservation Standard.....	5-33
9.54.040 - References to Additional City Resource Conservation Standards.....	5-34
9.54.050 - Construction Materials Recycling.....	5-34
Chapter 9.56 - Solar Siting and Solar Access.....	5-37

9.56.010 - Purpose and Objectives.....	5-37
9.56.020 - Applicability.....	5-37
9.56.030 - Definitions.....	5-37
9.56.040 - Subdivision Design, Building Orientation, Easements, and Access.....	5-38
9.56.050 - Solar Access Easements.....	5-39
9.56.060 - Solar Shade Control Act.....	5-40
9.56.070 - Solar Rights Act.....	5-40
Chapter 9.58 - Tree Preservation and Hazardous Tree Removal.....	5-41
9.58.010 - Purpose.....	5-41
9.58.020 - Applicability.....	5-41
9.58.030 - Tree Removal Permit Application Requirements.....	5-43
9.58.040 - Exemptions.....	5-45
9.58.050 - Tree Removal Permit Findings and Conditions.....	5-45
9.58.060 - Post Approval Procedures.....	5-47
9.58.070 - Tree Removal Without Permit.....	5-47
Chapter 9.59 - Environmentally Sensitive Habitat Areas Protection and Preservation.....	5-49
9.59.010 - Purpose.....	5-49
9.59.020 - Applicability.....	5-50
9.59.030 - Definitions.....	5-50
9.59.040 - Application Requirements.....	5-50
9.59.050 - Stream Conservation and Management.....	5-54
9.59.060 - Wetland Conservation and Management.....	5-56
9.59.070 - Project Review Procedures.....	5-58
9.59.080 - Conservation Easements.....	5-59
9.59.090 - Findings Required for Project Approval.....	5-59
9.59.100 - Notice of Protection Combining Zone Overlay.....	5-59

CHAPTER 9.50 - AGRICULTURAL PRESERVATION - RIGHT-TO-FARM

Sections:

9.50.010 - Purpose

9.50.020 - Applicability.

9.50.030 - Coastal Permit application contents.

9.50.040 - Supplementary findings for development within or adjacent to agricultural lands.

9.50.050 - Development standards.

~~9.50.020~~ 9.50.060 - Relationship to Nuisance

~~9.50.030~~ 9.50.070 - 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 - Applicability.

The provisions of this Chapter apply to all developments and uses situated in agricultural lands and lands suitable for agriculture and in lands designated for Agricultural Exclusive (AE), as implemented through Agricultural Exclusive (AE), zoning district standards.

9.50.030 - Coastal Permit application contents.

A. Agricultural lands conversion. For all conversions of agricultural lands and lands suitable for agriculture to non-agricultural uses pursuant to Coastal Land Use Policy C-RC-5b, a conversion/continued viability study shall be submitted consisting of the following information and analyses:

1. Baseline information.

(a) Mapping. Maps, photos and aerial photography adequate to identify the parent parcel, the proposed parcels, easements, restrictions, existing development and uses, wells and/or any other water supply lines, Natural Resources Conservation Service (NRCS) soils classifications, slopes, roads and any other relevant physical features.

2. Soils.

(a) Soil types found in the area.

(b) Storie index and capability classification ratings or equivalent ratings of all

identified soil types (as published by the NRCS, United States Department of Agriculture) of all identified soil types.

(c) The expected AUM (animal unit per month) yield for each soil type.

(d) The expected net dollar return for potential crops grown on each soil type.

(e) Identification of agricultural uses in the area that are not dependent upon the soil (e.g., greenhouse-based cultivation), if any, and, the location and nature of their operation(s).

3. Geographic/Historical information.

(a) Existing land uses on the site:

(b) Potential effects of the proposed agricultural land conversion or development on agricultural food production, both short-term and long-term; and recommendations and conclusions of the development's effects on existing or potential agricultural production:

(c) Description of factors such as slope, temperature, adequate sunlight, length of growing season, precipitation, soil quality (depth, drainage, capability classification rating, texture, development, unique qualities) affecting agricultural operations in the area.

(d) Description of management techniques currently used, or could be used, in order to improve soil quality for agricultural operations.

(e) Identification of agricultural operations that utilize more than one parcel for production in the area, and identification of the current agricultural practices and average acreage for each individual operation.

(f) Description of the relationship or proximity of agricultural and urban land uses.

(g) Adequacy of access to agricultural operations in the area.

(h) The types of agricultural operations that have taken place in the area in the past and where have they occurred.

4. Water.

(a) Water availability in the area.

(b) Water sources.

(c) Water quality issues that impact agricultural operations in the area, (e.g., high mineral content, saltwater intrusion).

5. Access.

(a) Adequacy of access to agricultural operations in the area.

(b) If access is problematic, the nature of the conflict; and the impacts the access.

limitations have on agricultural operation(s).

6. Operational expenses.

(a) Fixed costs for any given crop, assumed to be constant regardless of the annual yield, based solely on current costs and not upon speculative on potential future circumstances. Note: Land cost are not to be included into the cost analysis pursuant to Coastal Act Section 30241.5.

(b) Capital costs including:

(1) Land improvements (i.e., fences, roads, clearing, leveling, wells and pumps, etc.

(2) Equipment, i.e. trucks, tractors, buildings, special equipment (e.g., irrigation), etc.

(3) Herd expenses, i.e., payment for bulls and heifers; and

(4) Miscellaneous expenses. Cost determination must also include depreciation and interest expenses.

(c) Cultivating cost including operating costs for:

(1) Labor (i.e., the amount of hours necessary for planting and the rate of pay per hour including benefits;

(2) Materials, i.e., water, seed, feed supplements, salt, fertilizer, and pesticides;

(3) Machinery;

(4) Fuel and repair; and

(5) Outside consultants (i.e., veterinary and management).

(d) Variable costs. The harvest costs based on the amount of yield only, expressed as the cost per unit of yield (e.g., tons, bushels, 100 weight, or pounds).

7. Gross revenue.

(a) Gross returns for each crop type grown in the area for the preceding five years, as detailed in the annual crop report issued by the County Agriculture Commissioner.

(b) Past return figures, factoring in the appropriate Producer Price Index (PPI) value to account to inflation over time.

8. Evaluations incorporating cost and revenue figures.

(a) Requisite minimum acreage for continued viable agricultural operation (farm family approach). Demonstration of continued viability shall be based upon:

(i.) A determination of projected net income, taking into account production

costs by crop computed on a per acre basis and subtracted from gross market receipts expected from that crop. The resulting farmer income per acre of productive land, shall then be divided into the county's median income figure to compute the number of acres required to support a farm family; or

(ii.) A determination of net return per acre, per crop type, for the area only by crop type. The gross revenue per acre for subject crop types as listed in the County Agricultural Commissioner's annual report subtracting the cost per acre associated with each crop type.

9. Prime agricultural land determination. All agricultural land and land suitable for agriculture that is proposed for conversion to nonagricultural use shall be evaluated for a determination of whether it should be categorized as prime or nonprime agricultural land. As defined in the Coastal Act, "prime agricultural land" is "those lands defined in paragraph (1), (2), (3), or (4) of subsection (c) of Section 51201 of the Government Code" (Coastal Act Section 30113). Government Code Sections 51200 through 51296, also known as the "Williamson Act," and Coastal Land Use Plan Policy C-LU-6c list the following definitions of prime agricultural land:

1) All land that qualifies for rating as Class I or Class II in the Natural Resource Conservation Service land use capability classifications;

2) Land which qualifies for rating eighty (80) through 100 in the Storie Index Rating;

3) Land which 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 which have a nonbearing period of less than five (5) 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 Two Hundred and no/100ths (\$200.00) Dollars per acre; and

5) Land of high agricultural value, meeting the following criteria:

a) Lands "actively used" (lands may be considered "actively used" even though they lie idle for up to ten years) for agricultural production such as nursery crops, pasture crops, dairy products, and/or livestock, and;

b) Lands which comprise a minimum of 20 acres in contiguous ownership.

10. Divisions of agricultural land. All land divisions of agricultural lands and lands suitable for agriculture shall submit a continued viability analysis and agricultural management plan detailing how the land will remain in active agricultural production once subdivided. The viability analysis and management plan shall consist of the following information:

(a) Property information. A summary of the current status of the property to be subdivided:

(i.) Current ownership.

(ii.) Property location and size.

(iii.) Climate of the area.

(iv.) Existing infrastructure both on and off farm.

(v.) A list of all known agricultural activities conducted on the property in the last 10 - 50 years.

(vi.) Principal management strategies applied by current owner (e.g. fertilizer applications, erosion management, waste disposal etc.)

(vii.) Personnel currently employed on the property.

(b) Property map. Illustration of how the proposed development fits within the current property structure:

(i.) North arrow and map scale

(ii.) Abutting lots, roads and water ways.

(iii.) Adjoining land uses.

(iv.) Perimeter bounds including walls and fences and the proposed subdivision boundary.

(v.) All existing buildings.

(vi.) Access roads and trails.

(vii.) Slope and major landform features.

(viii.) Soil types / land classes.

ix.) Easements

(x.) Dams, water courses and drainage facilities.

(xi.) Utility services (e.g. electrical and natural gas, domestic water supplies, and telephone).

(xii.) Proposed uses and internal fencing of the property with area and linear measurements shown.

(xiii.) Existing and proposed vegetation including windbreaks, areas of arable land, plantation forestry and native bush.

(iv.) If water or other materials are discharged off-site, the location, direction and type of discharge (e.g. pollution, soil erosion, manure, fertilizers):

(xv.) Important aesthetic, cultural and historical features.

(xvi.) Unique natural areas, e.g. raptor nests, ecologically significant habitats.

rare or endangered species.

(xvii.) Current land use.

(xviii.) Proposed subdivision boundaries.

(c) Proposed land uses for each of the proposed new subdivision lots. An evaluation of potential land-uses for the properties, based on the land capability and the local climate, comprising a list indicating the suitability of the land for each purpose and note any restrictions.

(d) Water management. A description of the water supply in terms of location, quality, quantity and power source, detailing any water entitlements that will be allocated to the lots, and providing an assessment of the likely water requirements for the proposed uses. If water or other materials are discharged off-site, the location, direction and character of discharge (e.g., stormwater drainage, crop bog draining, fertigation runoff, irrigation flowthrough) shall be specified.

(e) Soil quality and conservation practices. Description of the major soil types, their structure, fertility and permeability characteristics, and identification of any major soil erosion patterns if present, including the current and proposed future management of these problem areas.

(f) Pest management. A listing of any agricultural pest problems (e.g., vertebrate, invertebrate or noxious or invasive plants) on the property, their location and the impact of their presence on the viability of existing or potential agricultural production, and identification of any necessary structures or eradication practices (e.g., bird netting, packing sheds, baiting, defoliant spraying, etc.)

(g) Natural resources management. A description of the impact of the proposed development on the biological environment, including affects on fish, wildlife, or rare plant habitats.

(h) Adverse weather management. Description of crop-damaging climatic or meteorologic conditions, including the identification of necessary structures to lessen such damages (e.g., hail netting, frost control systems, etc.)

(i) Fire management. Description of any fire risk created by the proposed development, including recommended fire prevention and management measures.

(j) Adverse effects on adjacent land. Identification of potential impacts of the agricultural operation on adjacent land, including a description of how the impacts would be reduced to less than significant levels, addressing:

(i.) Air pollution (e.g. offensive smells and spray drift).

(ii.) Noise (e.g., water pumps, refrigeration, cultivation equipment).

(iii.) Exterior lighting.

(iv) Water borne pollution.

(v.) Farm implement traffic on access roads.

(k) Required Resources. An inventory of the human and material assets needed to conduct the proposed agricultural operations:

(i.) Number of personnel necessary to operate the properties, including the identification of changes to the current human resource base following instigation of the proposed development.

(ii.) Infrastructure required for the proposed development, (e.g., new access roads, dikes and levees, buildings, utility extensions, securement of water rights, etc.)

(iii.) Schedule of cultivation and processing equipment and implements needed to conduct the agricultural operations.

(l) Allowance for possible future expansion. An explanation of how the proposed development will impact future expansion of the business enterprises given that average minimum farm sizes scales of economy are generally increasing.

(m) Capital resources, operational costs, and profits. Illustration of the potential profitability and sustainability of the venture, including amounts and sources of start-up capital, anticipated costs, and projected income.

9.50.040 Supplementary findings for development within or adjacent to agricultural lands.

In addition to the findings for approval or conditional approval of a Coastal Permit, development authorization, or other entitlement as required by section 9.72.030.F.2, the following supplementary findings, based on factual evidence, shall be made for new development or uses involving ground disturbing activities and/or occurring in or adjacent to agricultural lands:

A. Protection of Soils Resources

(1) Alteration of landforms have been minimized to the greatest amount feasible;

(2) Potential adverse impacts from erosion, sedimentation, and the entrainment of silt and soils materials have been minimized to less than significant levels; and

(3) Productive topsoils have been salvaged and stockpiled for reuse.

B. Protection of Agricultural Resources.

(1) General. All development conforms to the development standards set forth in Section 9.70.035.

(2) Land divisions of prime agricultural land; adjacent agricultural lands. All subdivisions of prime agricultural lands shall demonstrate that they will not diminish the productivity of such prime agricultural lands or adjacent agricultural lands.

(3) Land division of agricultural lands and lands suitable for agriculture. Agricultural lands and lands suitable for agriculture shall not be divided unless it can be demonstrated pursuant to an approved continued viability analysis and agriculture management plan, prepared consistent with the requirements of Section 9.70.035.C, demonstrating that the parcel(s) will remain viable for agricultural use at the subdivided parcel size(s) and will not diminish the productivity of

adjacent agricultural lands.

(4) Residential development. Otherwise permissible residential development, whether for farm dwellings, other permissible single-family residential occupancy, or farm labor housing, shall not be allowed to diminish current or future agricultural use of the property, or of adjacent lands suitable for agriculture.

9.50.050 - Development standards.

A. Development of all structural improvements and uses on lands designated or suitable for agriculture consistent with all other LCP policies, shall:

(1) Support, and not interfere with, the primary use of the site as a productive agricultural unit for the continuing, renewed or expanded production of food and fiber. The structures or uses shall be designed to provide buffer areas between on- and off-site agricultural and nonagricultural uses to minimize land use conflicts.

(2) Be clustered adjacent to existing non-agricultural structures or along road frontages, and avoid construction on prime agricultural soils, except where it is demonstrated that all agriculturally unsuitable land on the site has been developed or cannot be used because of terrain or other constraints.

(3) Retain the maximum feasible amount of agriculturally designated lands available for existing or potential agricultural production;

(4) Be sited and designed to protect coastal resources, including but not limited to, ESHA and visual resources;

(5) Protect on-site water resources through sizing non-agricultural development to assure that adequate water resources are available to the site, to maintain habitat values and serve both the development and existing and proposed agricultural operations;

(6) Preclude growth inducement through prohibiting extension of urban sewer and water services to support on-site agricultural operations or other uses, except for reclaimed wastewater that may be used for agricultural enhancement.

(7) Site and design roads and driveways to be the minimum width and length necessary, to ensure that the road and driveways will not adverse affect agricultural productivity on the site or on adjoining lands, and designed to avoid unnecessary cut and fill, particularly by conforming to natural landforms

B. Guarantee of continuing agricultural use. As a condition of approval of a development involving the conversion from an agricultural use to a nonagricultural use, the applicant shall insure that the remainder of the parcel(s) be retained in agricultural use by recording a legal restriction against the property (e.g., agricultural conservation easement, offer to dedicate an agricultural easement, deed restriction) that limits the use of the land covered by the easement to agricultural uses.

C. Procedures for agricultural or open space easements. Any easement required by this section shall be reviewed as set forth in Section 9.69.080 of this code.

~~9.50.020~~ 9.50.060 - 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~~ **9.50.070 - 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.

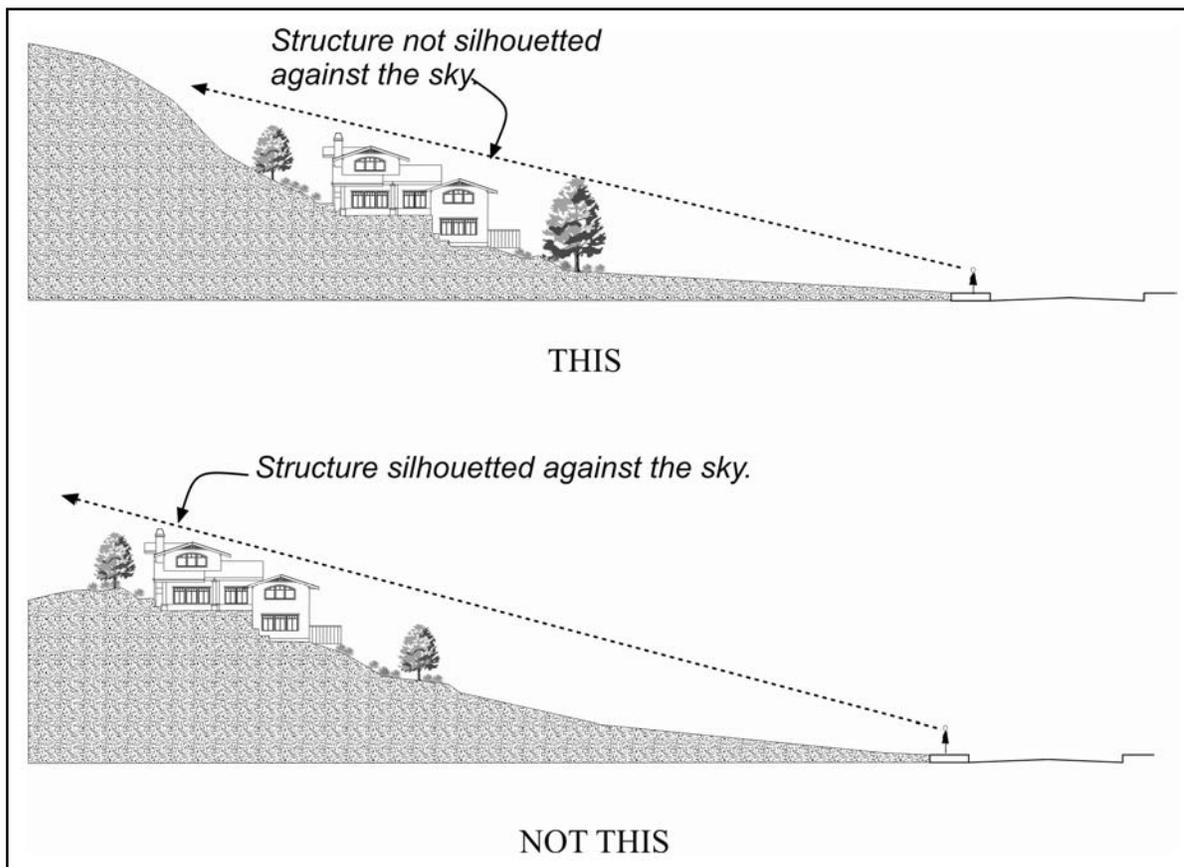


Figure 5-1 - Silhouetted Structure

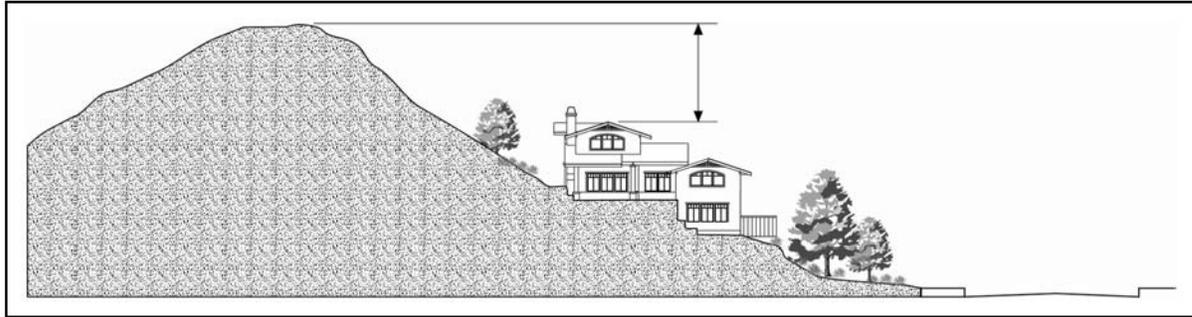


Figure 5-2 - Location of Structure Below Ridgeline

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.

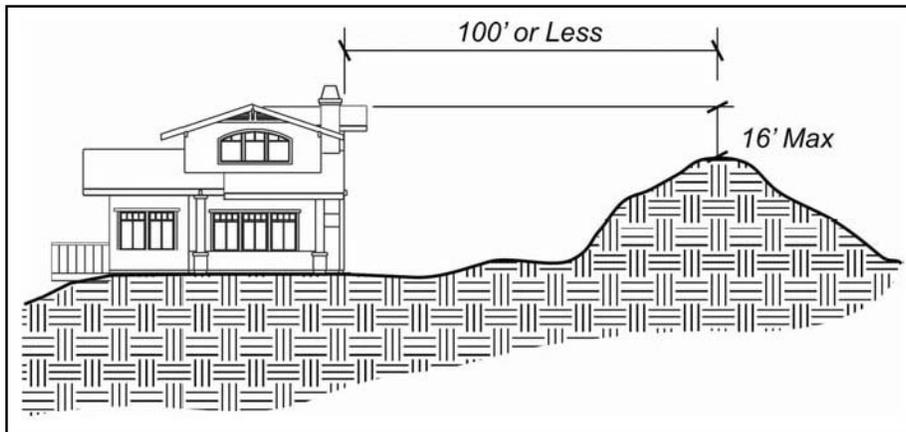


Figure 5-3 - Highest Point Within 100 Feet of Structure

- 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.

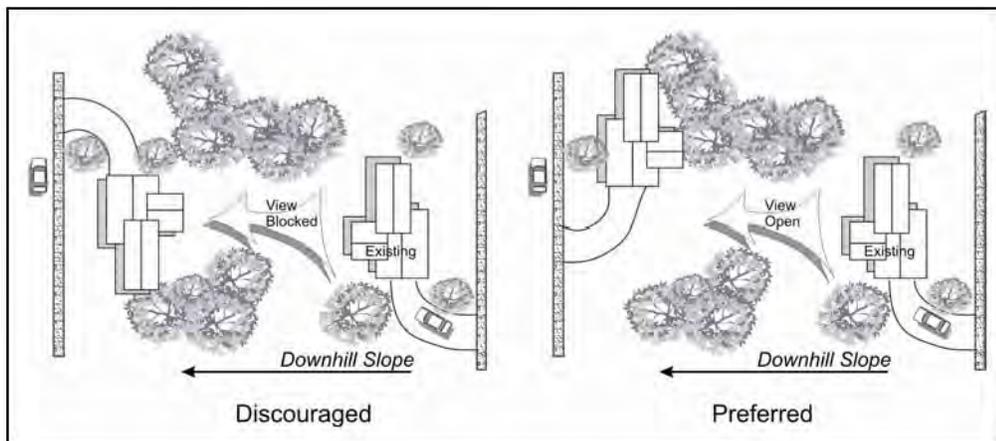


Figure 5-4 - View Protection

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.

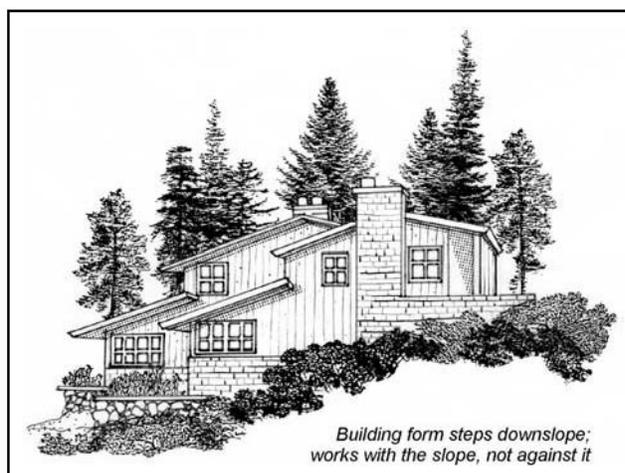


Figure 5-5 - Design Sensitive to Terrain (an example of building form, not intended to show preferred architectural style)

- 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.
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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

NOTE: CHAPTER 9.54 IS NOT AN APPLICABLE PART OF THE COASTAL LAND USE CODE FOR PURPOSES OF THE GOVERNANCE OF THE ISSUANCE OR APPEAL OF COASTAL PERMITS

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

NOTE: CHAPTER 9.56 IS NOT AN APPLICABLE PART OF THE COASTAL LAND USE CODE FOR PURPOSES OF THE GOVERNANCE OF THE ISSUANCE OR APPEAL OF COASTAL PERMITS

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."

The securing of a Tree Removal Permit does not obviate the necessity of obtaining a Coastal Permit pursuant to Section 9.72.030 of this Coastal Land Use Code.

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:

- 9C.59.010 - Purpose
- 9C.59.020 - Applicability
- 9C.59.030 - Definitions
- 9C.59.040 - Application Requirements
- 9C.59.045 – Reduced-Width Buffer Adequacy Evaluation
- 9C.59.050 - Stream Conservation and Management
- 9C.59.060 - Wetland Conservation and Management
- 9C.59.070 - Project Review Procedures
- 9C.59.080 - Conservation Easements
- 9C.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 all~~ properties ~~(within 250 feet)~~ within the Coastal Zone portions of the City regardless of whether such properties have been formally designated as containing wetlands, streams, or other environmentally sensitive habitat areas, Environmental Buffer Areas, or Wetland or Stream setbacks, through the Natural Resources zoning and/or Wetlands Protection and Streams Protection combining zone processes, 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~~ it can be factually demonstrated based upon a biological assessment of the site and a reduced-width buffer adequacy evaluation prepared pursuant to Section 9.59.045 that: (a) a buffer of reduced width would adequately protect the affected resources; or (b) an applicant asserts that the application of the EBA policies does not provide reasonable use of property, and the applicant has obtained an exemption to the 100-foot wide requirement based on an affirmative an economic viability use determination made pursuant to Chapter 9.72.
- 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" and "ESHA Related Terms."

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.
- 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)~~ Wetlands shall be defined as land where the water table is at, 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 and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such 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. For purposes of this definition, the

upland limit of a wetland shall be defined as co-terminus with either: (1) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; (2) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or (3) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not. For the purposes of this definition, the term "wetlands" shall not include wetland habitat created by the presence of and associated with agricultural ponds and reservoirs where: (1) the pond or reservoir was in fact constructed by a farmer or rancher for agricultural purposes; and (2) there is no evidence (e.g., aerial photographs, historical survey, etc.) showing that wetland habitat pre-dated the existence of the pond or reservoir. Areas with drained hydric soils that are no longer capable of supporting hydrophytes shall not be considered wetlands. The procedure for classifying wetlands shall be that set forth in "Classification of Wetlands and Deepwater Habitats of the United States, U.S. Fish and Wildlife Service."

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, including all setbacks and buffer areas, 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), and an analysis of its buffer needs to prevent significant adverse impacts to environmentally sensitive resources therein, 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 minimum of a 1:1 areal ratio, with additional multiple area required as necessary to ensure the adequacy of the mitigation, including: (a) offsetting temporal losses of wetland functions associated proportional with the time lag between the loss of the wetland area being developed and the establishment of the compensatory wetlands, (b) accounting for uncertainty of successful, first-round establishment of the replacement wetlands, and (c) consideration of the complexity of the wetlands functions being replaced.
7. Off-site ESHA mitigation ratio shall be ~~a minimum of 4:1 in the Coastal Zone and minimum of 2:1 elsewhere~~ based on the area required to ensure the adequacy of the mitigation, including: (a) offsetting temporal losses of wetland functions during the establishment of the compensatory wetlands, (b) accounting for uncertainty of successful, first-round establishment of the replacement wetlands, (c) consideration of the complexity of the wetlands functions being replaced, and (d) compensating for both the off-site and out-of-kind aspects of the replacement wetlands.
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, with provisions for extending the initial five-year mitigation monitoring program until successful compensatory wetlands mitigation has been achieved.
11. Identification of ESHA restoration opportunities.

9C.59.045 – Reduced-Width Buffer Adequacy Evaluation

New development adjacent to ESHA shall provide buffer areas to serve as transitional habitat and provide distance and physical barriers to human intrusion. The purpose of this buffer area is to provide for a sufficient area to protect environmentally sensitive habitats from significant degradation resulting from future development. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. The width of the buffer area shall be a minimum of one-hundred feet (100'), unless an applicant can demonstrate, after consultation with the California Department of Fish and Game, and the City, that one-hundred feet (100') is not necessary to protect the resources of that particular habitat area and the adjacent upland transitional habitat function of the buffer from possible significant disruption caused by the proposed development.

The following criteria shall be utilized in evaluating the adequacy of reduced-width buffer areas:

(1) Biological significance of adjacent lands. Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting). Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the ESHA that is adjacent to the proposed development.

(2) Sensitivity of species to disturbance. The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, or others with similar expertise:

(a) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species;

(b) An assessment of the short-term and long-term adaptability of various species to human disturbance;
and

(c) An assessment of the impact and activity levels of the proposed development on the resource.

(3) Erosion susceptibility. The width of the buffer shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, erosion potential, and vegetative cover of the parcel proposed for development and adjacent lands. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development shall be provided.

(4) Potential for incorporation of natural topography. Where feasible, use hills and bluffs adjacent to Environmentally Sensitive Habitat Areas, to buffer these habitat areas. Where otherwise permitted, locate development on the sides of hills away from Environmentally Sensitive Habitat Areas. Include bluff faces in the buffer area.

(5) Potential for incorporation of existing man-made features. Where feasible, use man-made features such as roads and dikes to buffer environmentally sensitive habitat areas.

(6) Lot configuration and location of existing development. Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance shall be required as a buffer zone for any new development permitted. However, if that distance is less than one hundred (100) feet, additional mitigation measures (e.g., planting of native vegetation) shall be provided to ensure additional protection.

(7). Type and scale of development proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer zone necessary to protect the ESHA. Such evaluations shall be made on a case-by-case basis depending upon the resources involved, the degree to which adjacent lands are already developed, and the type of development already existing in the area.

Required buffer areas as determined by an approved adequacy evaluation prepared pursuant to this section and authorized to be reduced to less than 100 feet in width, shall be measured from the following points as applicable:

(i) The low-tide extent periphery of off-shore rocks and intertidal ESHA.

(ii)The mean high tide line for intertidal zone ESHA.

(iii)The perimeter of the sand dune/permanently established terrestrial vegetation interface for sand dune ESHA.

(iv)The upland edge of a wetland for a wetland ESHA.

(v)The outer edge of the canopy of streamside vegetation for riparian vegetation ESHA, or from the top of stream bank where no riparian vegetation exists.

(vi)The outer edge of the plants that comprise the rare plant community for rare plant community ESHA.

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 that can impact any stream or stream buffer areas including 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), and its EBA setback and buffers.

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~~ 100 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 feet~~ may authorize an EBA width of less than 100 feet based on substantial evidence in the Biological Assessment and supported by written, factual based findings ~~of compliance with the General Plan Resource Conservation Element presented in a Reduced-Width Buffer Adequacy evaluation prepared pursuant to Section 9.59.045, that the reduced width buffer with the inclusion of other mitigative features, such as landscaped screening or berming, would adequately protect the affected riparian and stream resources from direct, indirect, and cumulative adverse impacts.~~
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 if, in association with stream "day lighting" (restoration) projects.~~

B. Allowable uses and activities within a stream or :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 stream or :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 and unauthorized human intrusion;
- c. Maintenance of existing roads, driveways, and structures;
- d. Construction of public road crossings, provided such crossings minimize their lengths through the EBA;
- 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. k. Public coastal access improvements; and~~

~~c. l. Boat launching facilities.~~

3. Exceptions. If an applicant claims that the 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~~ the Coastal Land Use 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~~ the Economic Viability Determination process of Chapter 9.72 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 setback and buffer.

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 that could impact any wetland or wetland buffer area, including 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.~~

2. The review authority may authorize an EBA width of less than 100 feet based on substantial evidence in the Biological Assessment and Reduced and supported by written, factual based findings presented in a reduced-width buffer evaluation prepared pursuant to Section 9.59.045, that the reduced width buffer with the inclusion of other mitigative features, such as landscaped screening or berming, would adequately protect the affected wetland resources from direct, indirect, and cumulative adverse impacts.

3. Artificial wetlands. The EBA may range from zero to 50 feet for Stormwater Best Management Practices such as detention basins and treatment created wetlands.
- B. Allowable uses and activities within a wetland or :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 wetland or :WP shall be limited to the following items enumerated below, in compliance with all other applicable requirements of Chapter 9.59 and the General Coastal Land Use 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-3I shall not exceed 50 percent the percentage of the setback area ~~and not within 25 feet of~~ and/or encroach within a proximity to the delineated wetland boundary so whereby the protections afforded the wetland by the imposed EBA setback are nullified;
 3. Fencing along :WP boundaries to prevent degradation of wetlands by livestock and unauthorized human intrusion;
 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 the percentage of the setback area ~~and not within 25 feet of~~ and/or encroach within a proximity to the delineated wetland boundary whereby the protections afforded the wetland by the imposed EBA setback are nullified.
- ~~9. C.~~ Exceptions. If restriction(s) in this Subsection would result in an uncompensated taking of undeveloped legal parcel, not on Public Trust lands, created prior to the effective date of General Coastal Land Use 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, and the Economic Viability Determination process of Chapter 9.72, 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. D.~~ 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 and/or out-of-kind 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~~ the hearing authority.
 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 or other qualified private entity, 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 to 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~~ Coastal Land Use 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~~ a stream or wetland or either of their buffers, 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~~ a stream or wetland or either of their buffers. 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~~ qualified private 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 ~~Coastal~~ Coastal Land Use Code.

A. The proposed land use or development is in compliance with the policies of the ~~General Plan~~, Local Coastal Program, including the policies and standards of the Coastal Land Use plan and the 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~~ adjacent ESHA or parks and recreation areas.

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~~ sited and designed to prevent impacts ~~to these resources which would~~

significantly degrade those areas, and to be compatible with the continuance of those habitat areas.

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~~ =

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~~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.~~