SUPPLEMENT NO. 3

INSERTION GUIDE

PLEASANTON PLANNING AND ZONING CODE

January 2010

(Covering Ordinances through 2000)

This supplement consists of reprinted pages replacing existing pages in the Pleasanton Planning and Zoning Code.

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PREFACE

The Pleasanton Planning and Zoning Code is a codification of the planning and zoning ordinances of the City of Pleasanton, California, republished in June 2008 by Quality Code Publishing Company.

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prove, conditionally approve, or deny application for conversions pursuant to the provisions of this chapter. Projects which are approved by the city council may proceed to submit subdivision applications pursuant to state law and local ordinance requirements.

B. Approval Procedures for Exempt Condominium Conversion Projects. Developers of condominium conversion projects qualifying as exempt projects shall submit application required by Section 17.04.070(B) at the same time applications are made for tentative map or preliminary parcel map approval. Such applications may be made at any time during the year. The decision-making body may approve, conditionally approve, or deny applications for conversion pursuant to the provisions of this chapter. Any decision may be appealed by an aggrieved party to the city council.

C. Condominium conversion approval shall lapse if a final map has not been filed with the city council for approval within one year of receipt of condominium conversion approval, or such other time as may be set at the time of conversion approval. (Ord. 1075 § 1, 1983; prior code § 2-25.06)

17.04.070 Application requirements.

A. Information Required. Developers shall prepare an application for submittal to the planning division on a form prepared by the planning division and containing the information required by the community development director. The director or his or her designate shall determine whether the application is complete.

B. Fees. The applicant shall pay a fee based on the actual costs of reviewing and processing the application in accordance with the resolution establishing fees and charges for various municipal services, codified in the appendix to Title 3 of this code. (Ord. 2000 § 1, 2009; prior code § 2-25.07)

17.04.080 Public hearing required.

A public hearing shall be held prior to a determination to approve or disapprove an application to convert, at which time the reviewing body shall take testimony concerning the proposed conversion, measures proposed to be taken to meet the requirements of this chapter, and other relevant information. Notice of the public hearing shall be given in the manner required by Section 18.12.040 of this code. In addition, notice shall be given within 10 days of the hearing to every tenant in the apartment building or apartment complex proposed for conversion. (Prior code § 2-25.08)

17.04.090 Physical standards.

A. Standards for condominium conversion projects shall be as follows:

1. The design, improvement and/or construction of a condominium conversion project shall conform to and be in full accordance with all requirements of all locally adopted building, fire, housing, and other construction codes, zoning provisions, and other applicable local, state or federal laws or ordinances relating to protection of public health and safety laws or ordinances relating to protection of public health and safety in effect at the time of application for conversion.

2. The project CC&Rs shall make provision for the maintenance of the project's landscaping and other common areas and facilities, subject to review and approval by the city attorney.

3. Parking shall be provided according to standards established for condominiums by Chapter 18.88 of this code.

B. Notwithstanding any of the provisions of subsection A of this section, the reviewing body may waive any standard pursuant to Section 17.04.040 of this chapter. (Prior code § 2-25.09)

17.04.100 Tenant provisions.

A. Notice Requirements. All tenants shall be kept fully informed of the following actions taken by the developer in proceeding to convert the project. The following notice shall be provided by the developer to all tenants:

1. Sixty days written notice of intent to convert prior to the public hearing date before the city council, planning commission, or staff review board;

2. Ten days' notice of hearing on application to convert pursuant to Section 17.04.090; and

3. All other notices required by the Subdivision Map Act.

Notice shall be supplied to all tenants occupying the units at any time after the filing of the initial notices of intent and said notice shall be given to prospective tenants as well.

B. Rent Increase Protection.

1. No application for conversion shall be approved if rents have been raised on any unit, whether affecting existing tenants or at change of occupancy, during the period six months prior to the date of approval of the condominium conversion project. The provisions of this subsection shall not apply to conversions processed pursuant to Section 17.04.050(B).

2. The leases of tenants continuing to reside in the project during the period between approval of the condominium conversion project and sale of the unit shall be under the same terms and conditions as existed at the time of the approval, except that rent may increase at an annual rate equivalent to the Bay Area Consumer Price Index or seven percent, whichever is less. No rent increase allowed by this section shall be established until one year has elapsed from receipt of condominium conversion approval; subsequent rent increases shall be allowed no more frequently than annually. The terms and conditions of leases affecting tenants not residing in the project at the time of approval (e.g., upon change of occupancy) shall not be subject to any limitation contained in this section.

C. Elderly and Handicapped Tenant Rights. Any elderly or handicapped tenant, as defined in Section 17.04.020, who has occupied a dwelling unit or mobilehome space in a proposed condominium conversion project for 18 months or more on the date of approval of the project shall have special leasehold rights. Elderly tenants shall have the right to lease their units for nine years; handicapped tenants shall have the right to lease their units for seven years. Such extended leases shall be under the same terms and conditions as existed at the time of activation of the application, except that rent may increase at an annual rate equivalent to the Bay Area Consumer Price Index or seven percent, whichever is less. Extended leases shall begin as of the date of approval of the condominium conversion. At the time of conversion, any dwelling unit subject to this extended lease provision shall be refurbished at the expense of the developer in a like manner as those units to be sold as condominiums, and said dwelling unit shall be adequately maintained for the duration of the lease. Refurbishing shall include all cosmetic improvements (painting, linoleum, carpeting, drapes, counters, etc.) as well as any structural changes required of converted units.

D. Tenant Relocation Assistance. All persons living in units or occupying mobilehome spaces on the date of approval of the condominium conversion project who choose not to purchase units in the condominium conversion project shall be afforded the relocation assistance included below:

1. Relocation assistance provided by a professional property management agency, at the expense of the developer, in finding a comparable replacement rental unit; such assistance shall include, at a minimum, providing rental availability reports and updating same, assisting tenants inspect available units, and providing other personal services related to the relocation of each tenant;

2. Moving expenses paid for by the developer in an amount equal to the actual costs for any tenant relocating in the Tri-Valley Area, or $500.00, whichever is less. The city council may adjust the maximum moving expense allowable year to year to reflect increases in costs;

3. Utility connection fees paid for by the developer in an amount equal to actual expenses up to a maximum of $100.00. The city council may adjust the amount required in this subsection year to year to reflect increases in costs.

E. Tenant Purchase Assistance. Tenants living in units or occupying mobilehome spaces on the date of approval of the condominium conversion project shall be afforded the right to purchase their respective units or another unit in the complex under preferential terms. Preferential terms shall include the following:

1. First right to refusal to purchase their own unit;

2. Price reduction of $50.00 per month for every month a tenant has resided in the complex, up to a maximum of $1000.00, from the price like units are offered to the general public;

3. Any tree 35 feet or more in height;
4. Any tree of particular historical significance specifically designated by official action;
5. A stand of trees, the nature of which makes each dependent upon the other for survival or the area's natural beauty.

B. "Director" means the community development director or the director's designated representative.

C. "Topping" means heading back of the crown and/or creating large stubs without regard to form.

D. "Certified or consulting arborist" means an arborist who is registered with the International Society of Arboriculture and approved by the director.

E. "Applicant" means a property owner requesting permission to remove a tree on improved property.

F. "Significant impact" means an unreasonable interference with the normal and intended use of the property. In determining whether there is a significant impact, the typical longevity of the subject tree species, as well as the size of the tree relative to the property, shall be considered. Normal maintenance, including, but not limited to, pruning, and leaf removal and minor damage to paving shall not be considered when making a determination of significant impact. (Ord. 2000 § 1, 2009; Ord. 1737 § 1, 1998)

17.16.009 Exceptions.

The provisions of this chapter shall not apply to fruit or nut trees when part of an orchard, the produce of which is used for commercial purposes. (Ord. 1737 § 1, 1998)

17.16.010 Permit—Required.

A. No person shall remove, destroy or disfigure, any heritage tree growing within the city without a permit except as provided in this chapter.

B. Normal maintenance pruning of heritage trees shall not require a permit but shall in all cases be in conformance with the guidelines of the International Society of Arboriculture, Tree Pruning Guidelines, current edition. Pruning which, in the opinion of the director, varies from these guidelines shall be subject to fines and penalties as provided in Section 17.16.110 of this chapter. (Ord. 1737 § 1, 1998)

17.16.020 Permit—Procedure.

A. Except as provided in Section 17.16.050 of this chapter, any person desiring to remove any heritage tree in the city shall make application to the director. Said application shall contain the number, species, size and location of heritage trees to be removed and a brief statement of the reason for removal as well as any other pertinent information the director may require. The permit, if granted, shall entitle the applicant to remove only those heritage trees designated by permit.

B. The director shall visit and inspect the property, the heritage tree or trees in question, and the surrounding area and shall ascertain the following:

1. The condition of the heritage tree with respect to disease, general health, damage, public nuisance, danger of falling, proximity to existing or proposed structures, interference with utility service and whether or not the heritage tree acts as host for a plant which is parasitic to another species of tree which is in danger of being exterminated by the parasite;
2. Whether the tree has a significant impact on the property;
3. The necessity to remove any heritage tree in order to construct any proposed improvements to allow for the economic enjoyment of the property;
4. The number of existing trees in the neighborhood or area on improved property and the effect removal would have upon the public health, safety, general welfare of residents and upon the property value and beauty of the area;

5. The topography of the land upon which the heritage tree or trees are situated and the effect of removal thereof upon erosion, soil retention and diversion or flow of surface waters;

6. Good forestry practices, i.e., the number of healthy trees that a given parcel of land will support.

C. The director may refer any application to any city department or commission for review and recommendation. (Ord. 1737 § 1, 1998)

17.16.025 Significant impact—Administrative hearing.

A. Where the applicant applies to remove a heritage tree on grounds that it has a significant impact on the property, the director shall conduct a hearing. The hearing shall be set not less than 15 days and not more than 60 days from the date the application if filed.

B. The director shall send notice of the hearing to all property owners and residents within 300.

C. At the hearing, the applicant and any interested party shall be given the opportunity to be heard concerning the preservation or removal of the heritage tree.

D. After considering all relevant evidence, the director shall issue a written decision to preserve or remove the tree.

E. The director shall send a copy of the written decision to the applicant and neighboring property owners and residents within 300 of the tree.

F. Unless appealed, the decision of the director shall become effective 20 days after being issued.

G. The director's decision may be appealed as provided in Section 17.16.040 of this chapter. (Ord. 1737 § 1, 1998)

17.16.030 Action by director—Findings.

A. The director shall issue a permit to remove a heritage tree or trees if it is determined that one of the following conditions exists:

1. The heritage tree is in such a dangerous or hazardous condition as to threaten or endanger the safety of people, structures, other property or other heritage trees;

2. The heritage tree has a significant impact on the property;

3. The heritage tree is dead, dying or diseased and good forestry practices cannot be reasonably undertaken to preserve the tree; or

4. Where the heritage tree in question is not diseased or hazardous, the removal of the tree is consistent with the purpose and intent of this chapter and in keeping with the health, safety and general welfare of the community.

B. The director shall notify the applicant in writing of the determination giving the reason for the application's approval or denial. (Ord. 1737 § 1, 1998)

17.16.040 Appeal.

A. The director's decision may be appealed. Such appeal must be submitted in writing to the city clerk within 20 days of the decision, shall briefly state facts and the grounds of the appeal and be signed by the appellant.

B. Any appeal concerning property with four or fewer residential units on the subject property, not concerning new development, shall be heard by the heritage tree board of appeals. All other appeals shall be heard by the city council.

C. The city clerk shall set a date for hearing before the appropriate appellate body and shall notify all interested parties. The director shall submit a report to the appropriate appellate body, along with any departmental recommendations.

D. The appellate body shall conduct a hearing on the appeal. Following the hearing of any such appeal, the appellate body may affirm, reverse or modify the action of the director and may take any action thereon which would have

boriculture, Tree Pruning Guidelines, current edition and any special conditions as determined by the director. For developments which require a tree report, a certified or consulting arborist shall be in reasonable charge of all activities involving heritage trees. (Ord. 1737 § 1, 1998)

17.16.090 Public utilities.

A. Any public utility installing or maintaining any overhead wires or underground pipes or conduits in the vicinity of a heritage tree shall obtain permission from the director before performing any work, including pruning, which may cause injury to the heritage tree.

B. The director shall inspect said pruning work to ensure that appropriate pruning practices are followed. The public utility shall follow pruning practices conforming to the International Society of Arboriculture pruning standards to promote the well-being of the tree. Topping shall not be permitted unless specifically approved by the director. The director shall stop any tree pruning performed by a utility if said practices are not being followed. (Ord. 1737 § 1, 1998)

17.16.100 Insurance requirements.

Any person engaged in the business of pruning heritage trees within the city shall be a California licensed contractor and shall carry public liability and property damage insurance as determined by the city attorney. (Ord. 1737 § 1, 1998)

17.16.110 Fines and penalties.

A. Any person who unlawfully removes or destroys a heritage tree shall pay a civil penalty in the amount of the appraised value of the tree. If there is inadequate plant material to properly appraise the tree, the penalty shall be $5,000.00. Any person who unlawfully disfigures a heritage tree whether through vandalism, improper pruning or other actions, shall pay a civil penalty commensurate with the damage; the amount shall be determined by the director in accordance with the "Guide for Plant Appraisal" under the auspices of the International Society of Arboriculture. The collection of the penalties may be enforced by civil action brought in the name of the city by the city attorney.

B. The cost of replacement plant material may be considered as partial payment of any penalty under this chapter. (Ord. 1737 § 1, 1998)

17.16.120 Additional provisions.

The provisions of this chapter shall supplement but not supplant other provisions of this code relating to the preservation of trees. (Ord. 1737 § 1, 1998)

Chapter 17.20

FUTURE STREET WIDTH LINES

Sections:

17.20.010 Objectives.

This chapter is adopted to protect and to promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, this chapter is adopted in order to achieve the objectives of the general plan and the zoning ordinances of the city as adopted and amended by the city council. (Prior code § 5-9.18)

17.20.020 Nature of provisions.

This chapter shall consist of the regulations and general descriptions contained herein and a set of maps as described in this chapter. The maps shall be maintained on file in the office of the community development director. (Ord. 2000 § 1, 2009; prior code § 5-9.19)

17.20.030 Extent.

This chapter shall apply to the streets within the city described in this chapter and to those portions of the described streets annexed to the city at a future date. (Prior code § 5-9.20)

17.20.040 Applicability.

For the purpose of measuring yard dimensions and determining building lines as may be required by the zoning ordinances and building codes of the city, the future street width lines described in this chapter shall be deemed to refer to the property line and shall be used in the same manner as any other existing property line. (Prior code § 5-9.21)

17.20.050 Vine Street.

The future width for Vine Street is shown on the plan prepared by the city department of public works, division of engineering, entitled "Future Street Width Lines, Vine Street," dated January, 1966, and is generally described as follows:

A 50-foot wide right-of-way which shall be the extension of Vine Street as it presently exists in unincorporated territory, the centerline of which is approximately 400 feet from the existing northerly right-of-way line of Vineyard Avenue and parallel thereto, terminating at its westerly limit in a cul-de-sac having a main radius of 45 feet, said cul-de-sac shall have its most westerly limit approximately 140 feet west of the extension of the centerline of Amador Court and situated so as to serve the property now or formerly owned by J. C. and W. Paulo; and a 50-foot wide right-of-way at right angles to Vineyard Avenue, extending from Vineyard Avenue northerly to an in-

Chapter 17.36

GROWTH MANAGEMENT PROGRAM*

Sections:

* **Prior ordinance history:** Ords. 1614, 1567, 1545, 1538, 1505, 1466, 1413, 1403, 1378, 1366, 1336.

17.36.010 Purpose.

A. Since the mid-1960s, Pleasanton's transformation from a small, agricultural-based community to a suburban bedroom community and then to a suburban "edge city" has been marked by periods of rapid growth which stressed the city's ability to provide infrastructure and services, affecting the quality of life of both existing and new residents.

B. In order to minimize the adverse effects of rapid uncontrolled residential growth, the city council adopted its first growth management ordinance in 1978, designed to regulate the location and rate of new residential growth in a period of sewage treatment capacity constraints brought about by air quality degradation concerns. Through the 1980s and 1990s, the city council modified the growth management ordinance in order to better achieve the evolving goals set for it, with the rate, location, and type of residential units regulated to achieve the general welfare of the city.

C. In 1996, the city council adopted a comprehensive revision to its general plan. Key goals and policies reflect the city's continued commitment to developing in an efficient, orderly, and logical fashion, ensuring adequate infrastructure and services are present to ensure that the city's quality of life and level of services are maintained. The general plan calls for assuring its citizens of a predictable growth rate, while providing housing to meet the needs of all economic segments of the community, regional housing needs, and employment growth.

D. Despite the controls established by past versions of the city's growth management program, residential development has continued to fluctuate over time, there has been little predictability of the actual number of new building permits issued and development under construction, and there is uncertainty over the city's ability to maintain its service levels and quality of life for its citizens due to regional influences and uncertain revenue sources for city and other local service-providing agencies.

E. This revised growth management program has been designed to rectify the areas wherein the former programs did not totally succeed; to establish a predictable growth rate which reflects community sentiment and which alleviates the potential for strain on the ability of the city and other local service providers to keep pace with services with no reduction in their quality; to continue to relate new residential growth to housing needs (including regional needs and local employment growth) and the availability of infrastructure and services; to move toward build-out of the community in a logical manner while affording future development areas the ability to accommodate changing housing demands; and to be fair and equitable to the development community, developers large and small, who have either received past approvals under former growth management programs or who have undertaken or will undertake development plans consistent with current goals and policies. (Ord. 1729 § 2, 1997)

17.36.020 Objectives.

The protection of the public health, safety, and general welfare requires a growth management program to accomplish the following:

A. Regulate the timing, location, and type of residential growth in accordance with the goals and policies of the general plan.

B. Achieve predictability in the rate of growth at levels which reflect community sentiment and the ability of the city and other local service-providing agencies to provide services without compromising quality of life issues.

C. Retain flexibility to accommodate projects desiring and capable of actual development in the short-term in order to more closely meet annual development goals.

D. Create certainty for larger project developers in the treatment of build-out of their projects which, for a variety of reasons, do not proceed to actual development in accordance with originally approved schedules.

E. Facilitate and implement the general plan goals, including the goals of the housing element, which cannot be accomplished by zoning alone.

F. Provide significant incentives to developers to provide subsidized housing. (Ord. 1729 § 2, 1997)

17.36.030 Building permit restriction.

Except as otherwise provided in this chapter, no building permit for a new residential unit, including permits for installation of a mobilehome unit, shall be issued except pursuant to the regulations contained in this chapter. (Ord. 1729 § 2, 1997)

17.36.040 Exemptions.

This chapter shall not be applicable to the following categories of residential units:

A. Second units approved in accordance with city zoning regulations.

B. Mobilehomes and/or living quarters located on school sites, public and institutional properties, and commercial/industrial properties used for security purposes or other purposes ancillary to the primary use, the use of which has been approved in accordance with city zoning regulations, when such residential units do not exceed one dwelling per site.

C. A condominium conversion or replacement unit of an existing unit demolished and/or destroyed. (Ord. 1729 § 2, 1997)

17.36.050 Administration of the growth management program.

A. Review of Growth Management Report.

1. Periodically, a growth management report shall be prepared which shall include:
    a. Historical building permit activity;
    b. Projections of likely building activity within the city by category of project;
    c. Estimates of new projects which may seek approval in the following year or years;
    d. Analysis of the capability of infrastructure and services to meet the demands of new residential development, including any changes to established conditions and/or measures designed to mitigate the adverse effects of new residential development; and
    e. Progress toward meeting city general plan goals and policies.
2. The growth management report shall be presented to the planning commission for its review. The planning commission shall make recommendations to the city council regarding the growth management report, including, but not limited to, annual allocation issues.

3. The city council shall receive and review the growth management report, and the recommendations of the planning commission. The city council's review of the growth management report should coincide with the council's review of requests for modifications of major project allocations and should occur at the council's second meeting in September. The city council may schedule such review at any time during the year should changed circumstances relating to the provision of planned infrastructure and/or services require a review and possible modification to the growth management program.

B. Program Review.

1. The city council, as necessary to administer the growth management program, including following review of the growth management report, shall have the following duties and powers:

a. Determine whether the annual new residential unit limits require adjustment downward due to infrastructure/service constraints;

b. Determine whether to adjust for the future the suballocations established for categories of new residential units;

c. Coordinate the requested trades of units among major project developers;

d. Determine the disposition of major project developers' reallocation requests;

e. Take other action determined by the council to be necessary to implement the provisions of this chapter.

2. The city council shall act on the following in administering the growth management program on an ongoing basis:

a. Grant initial growth management allocations to affordable housing projects and major projects;

b. Review and act on requests for reinstatement of lapsed growth management approvals and building permits;

c. Adjust annual limits and/or suballocations as it deems necessary pursuant to subsection A of this section;

d. Coordinate between January 1st and September 1st, in response to developers' requests, any requested reallocation requests and/or trades of units among major project developers or affordable housing projects;

e. Take any other action determined by the council to be necessary to implement this chapter. (Ord. 1999 § 1, 2009; Ord. 1802 § 1, 2000; Ord. 1729 § 2, 1997)

17.36.060 Establishment of annual new residential unit limits.

A. Except as provided herein, building permits issued for new residential units subject to this chapter shall not exceed the following aggregate totals for calendar years as follows:

Calendar Year	Maximum Building Permits
2009 - build-out	350 units

Except as provided in subsections B and C of this section and except when necessary to increase the annual housing allocations in order to grant approvals to projects so that the city is able to meet its total regional housing needs goals, the maximum limitations established in this section are nondiscretionary and shall not be modified by the city council in implementing this chapter.

B. Building permits in excess of the limits in subsection A of this section may be issued to a qualified affordable housing project in accordance with Section 17.36.080(A)(2) of this chapter.

C. The limitations established in subsection A of this section may be reduced by the city council if, upon reviewing the annual growth management report, it determines that infrastructure and/or services will not be available to satisfy the demands of the new residential units allowed for a given year. The limitation reduction mentioned in

the previous sentence may be citywide or localized, depending on the scope of the infrastructure and/or service shortfalls. The city council shall exercise its discretion pursuant to this subsection if the planned, phased infrastructure expansions which form the basis for establishing the managed growth to build-out of the general plan are not completed in a timely manner. "Infrastructure" as used herein includes new school construction pursuant to the school financing agreement, sewage treatment/export facility expansions, treated water availability, traffic network expansions consistent to implement city LOS policies, park procurement/development, and other measures of infrastructure/services as described in the growth management reports.

D. No reduction in future annual new residential unit limits shall affect any major project or affordable housing project which has received growth management approval granting future years' allocations so long as the conditions in effect at the time of the initial approval remain unchanged and the approved project continues to meet all project requirements. Nothing herein, however, limits the city's ability to impose a development moratorium under state law. (Ord. 1999 § 1, 2009; Ord. 1729 § 2, 1997)

17.36.070 Apportionment of yearly total new residential units to categories of projects.

All new residential units shall be classified in one of the following categories and shall be issued building permits in accordance with the regulations and limitations established for each category:

A. Categories of Projects. There shall be three categories of projects as defined below:

1. Affordable Housing Project. A project which meets the minimum requirements as established from time to time by the city for providing housing to either:

   a. Lower income households, or

   b. Moderate income households.

   The requirements for qualifying as an affordable housing project shall be established by the city in implementing its affordable housing program.

2. Major Project. A project which meets any of the following criteria:

   a. Has 100 or more units,

   b. Has fewer than 100 units but whose developer wishes the certainty of a multi-year allocation of at least three years,

   c. Has received an annual allocation pursuant to a growth management program at a time prior to the effective date hereof which grants growth management approval to units in calendar year 1998 or later years.

3. First-Come, First-Served Project. All projects and/or single unit applications which are neither an "affordable housing project" nor a "major project" as defined in subsections (A)(1) and (A)(2) of this section.

B. Establishment of Suballocations for Categories of Projects.

1. Affordable Housing Projects. Affordable housing projects shall have a suballocation of 50 units per year, beginning in 2001 and continuing each year thereafter.

2. Major Projects and First-Come, First-Served Projects.

   a. Major projects and first-come, first-served projects shall have an initial suballocation as set forth in the following table:

Initial Suballocations	Year	
Categories of projects	**2001—2008**	**2009—Build out**
Major projects (units)		200
First-come, first-served projects (units)		100
Affordable housing projects (units)	400	50
Yearly limit (units)		350

b. The city council may adjust the suballocation of units among the "major project" and "first-come, first-served project" categories to reflect actual or projected activity among these two categories. Such a reallocation may be made by the council at the annual review or a periodic review of the growth management program as described in Section 17.36.050 of this chapter. (Ord. 1999 § 1, 2009; Ord. 1729 § 2, 1997)

17.36.080 Approval procedures.

The procedures which are prerequisites for obtaining a building permit are set forth in this section for each category of project.

A. Affordable Housing Project. A qualifying project developer must first receive a specific allocation for the number of units and years in which the units shall be built from the affordable housing project suballocation established in Section 17.36.070(B)(1) of this chapter.

1. Availability of Building Permits to Affordable Projects.

a. Initial Suballocation and Carry-Over. The affordable housing project suballocation shall be initially available in the year it first appears. If not used, or partially used, the unused units shall be added to the following year's affordable housing suballocation, and all unused units shall continue to carry over to succeeding years in the event they are not fully used.

b. Use of Future Years' Suballocations. In addition to utilizing the existing year's suballocation (including any units carried over from prior years), a qualifying project developer may use up to four succeeding years' suballocations as described below.

(1) The yearly units allowed to be built in an affordable housing project, when added to the units in all other projects, may exceed the annual maximum limitation established in Section 17.36.060(A) of this chapter.

(2) The use of up to four succeeding years' suballocations shall be allowed only if there are units available in the affordable housing suballocation for the initial year for which the approval is sought. The initial year for the affordable housing suballocation, pursuant to Section 17.36.070(B)(1) of this chapter, is 2001. No new affordable housing project shall be approved for any year which has had that year's annual suballocation totally allocated to another project except where the approval is necessary for the city to meet its affordable housing regional housing needs and the project meets the community's goals and policies, has mitigated its impacts and can be served with infrastructure and services consistent with city policies.

2. Approval Process.

a. Prior Discretionary Project Approval Necessary. The qualifying project should normally have received planned unit development plan approval or design review approval prior to requesting growth management approval; however, a project may be considered for an allocation prior to such approval if sufficient information is presented to the city council for it to be able to determine the nature of the project, its affordability component, and its required allocation.

b. Growth Management Approval. Following its determination that a proposed project is a qualifying affordable housing project and that there are units available in the affordable housing suballocation to allocate to it, the city council, at its discretion, may grant an allocation to the project for such year or years as it deems necessary to allow construction of the project consistent with city growth management policies. The city may exercise its discretion in determining both the size of a qualifying project as well as its phasing. The council approval shall be in the form of an affordable housing agreement.

B. Major Project. A major project developer must receive a specific allocation for the number of units and years in which its project's units will be built. This allocation must be made from the suballocation for major projects.

1. Availability of Building Permits to Major Projects.

a. Initial Suballocation and Adjustments. The major project suballocation shall be as initially established in Section 17.36.070(B)(2) of this chapter and may be modified from time to time by the city council as described in Section 17.36.070 of this chapter.

b. Unused First-Come, First-Served Suballocation: On December 1st of each calendar year, a major project developer which has received growth management approval is eligible to secure building permits from the first-come, first-served suballocation, including its 15 units set-aside, if the suballocation for that calendar year has remaining units available.

2. Approval Process.

a. Prior Discretionary Project Approval Necessary.

(1) A major project developer may request a growth management allocation at the time of, or after, any of the following: PUD plan approval, design review approval, or a tentative map approval. The planning division shall provide the necessary application forms, and a project developer must file the application with the planning division. The application shall be accompanied by a fee established by the resolution establishing fees and the charges for various municipal services. The request shall indicate the desired phasing of the project.

(2) No application for a major project allocation will be accepted for processing by the planning division if capacity within the major project suballocation is not available for a reasonable project phase within at least the second calendar year after the year the application is tendered.

b. Growth Management Approval.

(1) The major project suballocation established in Section 17.36.070(B)(2) of this chapter shall not be exceeded. The city council may grant a specific growth management allocation to a project for one or more years so long as the total units allocated to major projects in any given year does not exceed the suballocation for that year.

(2) In reviewing a major project developer's request for allocation, the city council shall use its discretion in establishing a phasing schedule, giving consideration to the number of major projects which are pending or are likely to seek approval in the near term, the principle of "first-come, first-served," the economic feasibility of phasing the project, and other factors. The approval shall be in the form of a growth management agreement.

C. First-Come, First-Served Project. A first-come, first-served project developer shall be issued building permits, if available, from the suballocation for first-come, first-served projects, as described herein.

1. Availability of Building Permits to First-Come, First-Served Projects.

a. Initial Suballocation and Adjustments. The first-come, first-served project suballocation shall be as initially established in Section 17.36.070(B)(2) of this chapter and may be modified from time to time by the city council as described in Section 17.36.070 of this chapter.

b. Set-Aside for Small Projects. Of the total first-come, first-served suballocation, 15 units shall be set aside and shall be available only to building permit applications for custom residential units on existing lots of record at least one year old on the date of building permit issuance or for units within a project of four or fewer units. Five units shall become available on a first-come, first-served basis on the first working day following March 31st, June 30th, and September 30th, respectively. Unused units from any period shall be added to the following period. If unused as of December 1st, these shall become available to any developer of a first-come, first-served project or a major project developer.

c. Unused Major Project Suballocation. In the event that major project developers, in the aggregate, do not seek to utilize all the units included in an annual suballocation for major projects, any unused suballocation following the annual review in September shall be added to the units available for first-come, first-served projects.

d. Unused 15 Unit Set-Aside. In the event that any of the 15 units set aside pursuant to subsection (C)(1)(b) of this section are not used as of December 1st, these shall be added to the units remaining available in the first-come, first-served suballocation.

2. Approval Process.

a. Prerequisites for Issuance of Building Permit. A project developer may obtain first-come, first-served building permits when, following the normal course of processing an application, the application is deemed eligible for issuance of a permit by the building division and the suballocation for first-come, first-served projects has not been fully utilized. Building permits will be issued typically following a project's first having received all necessary discretionary approvals (e.g., PUD plan, design review, tentative map), a recorded final map (if required), and complete plans for constructing the residential unit. Partial building permit plans (e.g., foundation plans) shall not be sufficient for issuance of a building permit under this subsection. At the time of issuance of the building permit, subdivision improvements sufficient to allow the issuance of a foundation permit are required to have been completed and all fees paid.

b. Limitations on Annual Building Permits per Project.

(1) A first-come, first-served project developer shall be subject to the following limitations on the number of building permits it may secure:

(a) For a project seventy to ninety nine (70—99) units in size—a maximum of 35 building permits per year.

(b) For a project 40 to sixty nine (40—69) units in size—a maximum of 25 building permits per year.

(c) For a project of less than 40 units—a maximum of 20 building permits per year.

The size of the "project" shall be established based on the number of units included in the discretionary approval for the project, regardless of the number of preexisting lots it includes; any subdivision after the effective date hereof shall not create separate parcels for purposes of creating discrete "projects."

(2) Notwithstanding the limitations established above, use by a project developer of any units remaining in the first-come, first-served suballocation on December 1st or added to the first-come, first-served allocation pursuant to subsections (C)(1)(c) and (C)(1)(d) of this section shall not be limited by the annual project limitations established in subsection (C)(2)(b)(1) of this section.

c. Small Project Applicants. Projects eligible to use the 15 unit small project set-aside are eligible to use the first-come, first-served suballocation as follows:

(1) From January 1st through March 31st, small project applicants shall use the regular first-come, first-served suballocation.

(2) From April 1st through November 30th, small project applicants shall use, first, the regular first-come, first-served suballocation, if available, and, then, if not available, shall use any available small project set-aside units.

(3) After December 1st, small project applicants shall use the regular first-come, first-served suballocation.

d. Proration of Project Permits, Generally. The first-come, first-served suballocation is intended to be made available to developers in chronological order as building permits are ready to be issued. However, in certain instances when the demand for permits is known to exceed the number of permits available, the city shall prorate the available permits. Should the proration yield units in excess of those available due to rounding, the city shall reduce the total to equal the units available in any manner it finds equitable.

(1) Prior to the Beginning of Any Calendar Year. If, prior to January 1st of any year, the city has processed building permit applications seeking the next year's first-come, first-served suballocation which, in the aggregate, exceed the annual suballocation less the small project set-aside, the city shall prorate the permits to developers seeking permits.

(a) First Priority. Permits shall be issued first to first-come, first-served projects which were under construction in the prior year and secured permits for, or attempted to secure permits for, all units it was qualified to be issued permits for during that year.

(b) Second Priority. Permits shall be issued second to all projects eligible to apply for the available permits. Each project's pro rata share of the available suballocation shall be the percentage derived by the permits sought by the project (subject to the project limitations established herein) divided by all permits sought (subject to the same size limitations).

(2) Proration of Project Permits, Prior to Availability of Unused Major Project Units, Small Project Set-Aside Units, or Units Remaining Available on December 1st. If, prior to the determination that unused units may become available in September or on December 1st pursuant to subsections (C)(1)(c) and (C)(1)(d) of this section, the city may require project developers who may seek these units to apply for the units in advance so that, should the aggregate number of permits sought exceed the number to be made available, the city may issue permits on the following basis:

(a) First Priority. Permits shall be issued first to first-come, first-served projects under construction which did not receive permits equal to the project's annual maximum limitation. If the total of these exceeds the permits available, the permits shall be prorated based on each project's requested permits in relation to the total aggregate permits sought.

(b) Second Priority. Permits shall be issued second to all projects eligible to apply for the available permits. If the total of these exceeds the permits available, a project's permits shall be prorated based on the total permits issued that calendar year to the project (as of the date of application) in relation to the aggregate of all permits issued to all projects seeking the available units. New projects seeking these permits which have not built any units in that calendar year shall be assumed to have built the annual limit or the total project size, whichever is smaller, in making the proration. In the event such a proration method would allow a project more units than it requests, that project shall be entitled to 100 percent of its request, and any remaining units shall be redistributed in the manner described above. (Ord. 2000 § 1, 2009; Ord. 1999 § 1, 2009; Ord. 1729 § 2, 1997)

17.36.090 Use and loss of growth management approval.

A. Affordable Housing Project.

1. Building permits may be secured, following normal and customary review and processing procedures, up to the annual limit included in the project approvals for any year. Building permits may be issued at any time during the calendar year and in any number of phases, so long as the annual limit contained in the approval is not exceeded. A building permit issued for a unit in such a project shall be subject to the Uniform Building Code regulations concerning lapsing.

2. If an affordable housing project developer wishes to modify its phasing schedule, fails to secure all the building permits for which it was granted an allocation in any calendar year, or allows a building permit to lapse, it shall follow any rules established as a part of its growth management agreement. If no special rules are contained in its agreement, it shall apply to, or be referred to, the city council for its decision as to whether to allow a reallocation of the project. The council may reallocate the project as it deems best meets the needs of the city. If the project has not begun, the city council may void the growth management approval.

3. In the event a project's phasing schedule is revised or voided, any unused affordable housing project suballocation shall be available for use by a different qualifying project in that calendar year and, if it remains unused, it shall be carried over and shall be available for use by the same or a different qualifying affordable housing project in the following years.

B. Major Project.

1. A major project developer may be issued building permits up to the maximum yearly number established in its agreement. Permits may be issued at any time during the calendar year and at any rate.

2. Should a major project developer wish to revise its annual allocation, the following regulations shall apply:

a. For project developers seeking to move units into a later year or years:

(1) Prior to September 1st of a given calendar year, a project's developer may request a reallocation to a later year of some or all of its allocation. The planning division shall provide the necessary application forms, and a project developer must file the application with the planning division. The application shall be accompanied by a fee established by the resolution establishing fees and the charges for various municipal services.

(2) The city shall coordinate the "trade" of units for developers seeking to move to later years with those of developers seeking more permits in the current year. If an agreeable "trade" is established by the city, the units shall be moved to later years and shall be placed in the project's annual allocation in the year in which the "traded" unit originally occupied before the trade. If units moving forward come from a year later than the last allocation year of the project moving units to a future year, the units may be moved to the project's last allocation year, if available, rather than to the later year of the "trading" project. The city shall not refuse to make any trade which otherwise follows the provisions of this section. The traded units shall be approved by the city council and shall take the form of amended growth management agreements.

(3) If no "trade" is available for a unit or units, those units shall be reallocated to the last year for which the project has an allocation. (Subsequent year unused allocations shall also be added to the last year for which the project has an allocation.) This automatic reallocation shall occur only if the year to which the units are moving has available capacity in the major project suballocation. If no capacity is available, the reallocation shall be made to the first available year following the last year of the project's allocation. This reallocation shall be nondiscretionary on the part of the council and shall be documented in a revised schedule in a project's growth management agreement.

b. For project developers seeking to move units from later years into the current year:

(1) Prior to September 1st of a given calendar year, a project's developer may request a reallocation to the current year of some or all of its future years' allocations by filing an application with the planning division, together with any fee which may be established.

(2) The city shall coordinate the transfer of units for developers seeking to move forward to the current year with the requested transfer of units to later years. To the extent not all requests to move units forward can be accommodated, the city shall seek to prorate and/or coordinate the "trades" in a manner satisfactory to all parties seeking to move forward and to future years. Transfers shall be approved by the city council and shall take the form of amended growth management agreements.

(3) Units successfully transferred to the current year shall be treated in all ways as current year allocations. Building permits may be secured from the date of approval until December 31st of that calendar year and at any rate.

3. Should a major project developer seek to use the unused first-come, first-served suballocation which may be available after December 1st of any year, the developer shall apply for the number of units for which it wishes to receive permits. If on December 1st major project developers apply for remaining available units

within the first-come, first-served suballocation which exceed the remaining units available, the permits shall be issued on a pro rata basis, as described in Section 17.36.080(C)(2)(d) of this chapter. After December 1st, all permits under this subsection shall be issued on a first-come, first-served basis. In all events, major projects shall be subject to the rules governing issuance of first-come, first-served units when they avail themselves of the unused first-come, first-served suballocation. Any units issued to a major project developer pursuant to this subsection shall be subtracted from the final year of the major project developer's allocation.

4. Developers who have current year units and do not request the units to be reallocated as of September 1st and who subsequently do not obtain a building permit prior to January 1st of the following year, or where building permits lapse pursuant to the provisions of the Uniform Building Code after December 31st of the year of their allocation, shall lose their growth management approval for those units. No building permit shall be issued for such units until a new application for growth management approval has been made and a new approval granted by the city council following the procedures for major project initial approvals.

C. First-Come, First-Served Projects.

1. A first-come, first-served project shall be issued a building permit, if available, as described in Section 17.36.080(C) of this chapter. The building permit shall be governed by the applicable provisions of the Uniform Building Code.

2. In the event a building permit lapses pursuant to the provisions of the Uniform Building Code, the permit owner may petition the city council to reinstate the permit. The city council, at its discretion, may grant a reinstatement for a specified period of time or may require the owner to reapply for a new permit, subject to the rules for first-come, first-served units. During the time needed to hear a reinstatement request, the building permit shall not lose its approved status and shall not become an unused part of the first-come, first-served suballocation unless and until the reinstatement request is denied.

3. Should a first-come, first-served building permit lapse (and any reinstatement request denied) during the calendar year in which it was issued, it shall become part of the "pool" of the first-come, first-served suballocation and may be issued to another project. However, should such a building permit lapse in the year following the year in which it was issued, it shall not be added to that year's allocation.

D. The city council shall have the discretion to approve rules or procedures concerning the use and loss of growth management approval which vary from subsections A, B, or C of this section if it occurs as part of a project developer's development agreement or other legislative act and as long as the overall number of allowed permits does not exceed the limits established in Section 17.36.060 of this chapter. (Ord. 2000 § 1, 2009; Ord. 1729 § 2, 1997)

17.36.100 Modification to projects with growth management approval.

A. Once an affordable housing project or a major project has secured an affordable housing or a growth management agreement, the project may be modified without affecting its growth management approval, subject to city council review and approval, so long as no additional units are added. Such a modified project retains its original growth management allocation. Project modifications as used in this section shall mean significant changes to a project's design, density, product type, affordability component, amenities, and other aspects which bear on its original approval. Architectural modifications, site plan changes, and other project adjustments which are characterized as "minor modifications" in the city's PUD ordinance shall not need city council review and approval to retain growth management approval. Should the modification reduce the number of units, the units eliminated shall be deducted from the project's final year's allocation.

affordable housing agreement shall stipulate the method for assuring that the units retain their affordability as the housing market changes.

The community development director may waive the requirement for an affordable housing agreement for projects approved prior to the effective hereof and/or for projects that have their affordable housing requirements included in a development agreement or other city document. (Ord. 2000 § 1, 2009; Ord. 1818 § 1, 2000)

17.44.070 Incentives to encourage on-site construction of inclusionary units.

The city shall consider making available to the applicant incentives to increase the feasibility of residential projects to provide inclusionary units. Incentives or financial assistance will be offered only to the extent resources for this purpose are available and approved for such use by the city council or city manager, as defined below, and to the extent that the project, with the use of incentives or financial assistance, assists in achieving the city's housing goals. However, nothing in this chapter establishes, directly or through implication, a right of an applicant to receive any assistance or incentive from the city.

Any incentives provided by the city shall be set out in the affordable housing agreement pursuant to Section 17.44.060 of this chapter. The granting of the additional incentives shall require demonstration of exceptional circumstances that necessitate assistance from the city, as well as documentation of how such incentives increase the feasibility of providing affordable housing.

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

A. Fee Waiver or Deferral. The city council, by resolution, may waive or defer payment of city development impact fees and/or building permit fees applicable to the inclusionary units or the project of which they are a part. Fee waivers shall meet the criteria included in the city's adopted policy for evaluating waivers of city fees for affordable housing projects. The affordable housing agreement shall include the terms of the fee waiver.

B. Design Modifications. The granting of design modifications relative to the inclusionary requirement shall require the approval of the city council and shall meet all applicable zoning requirements of the city of Pleasanton. Modifications to typical design standards may include the following:

Reduced setbacks;

Reduction in infrastructure requirements;

Reduced open space requirements;

Reduced landscaping requirements;

Reduced interior or exterior amenities;

Reduction in parking requirements;

Height restriction waivers.

C. Second Mortgages. The city may utilize available lower income housing funds for the purpose of providing second mortgages to prospective unit owners or to subsidize the cost of a unit to establish an affordable rent or an affordable sales price. Terms of the second mortgage or subsidy shall be stated in the affordable housing agreement. The utilization of these incentives shall not be the sole source of providing the inclusionary units and they are intended to augment the developer's proposal.

D. Priority Processing. After receiving its discretionary approvals, a project that provides inclusionary units may be entitled to priority processing of building and engineering approvals subject to the approval of the city manager. A project eligible for priority processing shall be assigned to city engineering and/or building staff and processed in advance of all nonpriority items. (Ord. 1818 § 1, 2000)

17.44.080 Alternatives to constructing inclusionary units on-site.

The primary emphasis of this inclusionary zoning ordinance is to achieve the inclusion of affordable housing units to be constructed in conjunction with market rate units within the same project in all new residential projects. However, the city acknowledges that it may not always be practical to require that every project satisfy its affordable

housing requirement through the construction of affordable units within the project itself. Therefore, the requirements of this chapter may be satisfied by various methods other than the construction of inclusionary units on the project site. Some examples of alternate methods of compliance appear below. As housing market conditions change, the city may need to allow alternatives to provide options to applicants to further the intent of providing affordable housing with new development projects.

A. Off-Site Projects. Inclusionary units required pursuant to this chapter may be permitted to be constructed at a location within the city other than the project site. Any off-site inclusionary units must meet the following criteria:

1. The off-site inclusionary units must be determined to be consistent with the city's goal of creating, preserving, maintaining, and protecting housing for very low, low, and moderate income households.
2. The off-site inclusionary units must not result in a significant concentration of inclusionary units in any one particular neighborhood.
3. The off-site inclusionary units shall conform to the requirements of all applicable city ordinances and the provisions of this chapter.
4. The occupancy and rents of the off-site inclusionary units shall be governed by the terms of a deed restriction, and if applicable, a declaration of covenants, conditions and restrictions similar to that used for the on-site inclusionary units.

The affordable housing agreement shall stipulate the terms of the off-site inclusionary units. If the construction does not take place at the same time as project development, the agreement shall require the units to be produced within a specified time frame, but in no event longer than five years. A cash deposit or bond may be required by the city, refundable upon construction, as assurance that the units will be built.

B. Land Dedication. An applicant may dedicate land to the city or a local nonprofit housing developer in place of actual construction of inclusionary units upon approval of the city council. The intent of allowing a land dedication option is to provide the city or a local nonprofit housing developer the free land needed to make an inclusionary unit development feasible, thus furthering the intent of this chapter.

The dedicated land must be appropriately zoned, buildable, free of toxic substances and contaminated soils, and large enough to accommodate the number of inclusionary units required for the project. The city's acceptance of land dedication shall require that the lots be fully improved, with infrastructure, adjacent utilities, grading, and fees paid.

C. Credit Transfers. In the event a project exceeds the total number of inclusionary units required in this chapter, the project owner may request inclusionary unit credits which may be used to meet the affordable housing requirements of another project. Inclusionary unit credits are issued to and become the possession of the project owner and may not be transferred to another project owner without approval by the city council. The number of inclusionary unit credits awarded for any project is subject to approval by the city council.

D. Alternate Methods of Compliance. Applicants may propose creative concepts for meeting the requirements of this chapter, in order to bring down the cost of providing inclusionary units, whether on- or off-site. The city council may approve alternate methods of compliance with this chapter if the applicant demonstrates that such alternate method meets the purpose of this chapter (as set forth in Section 17.44.020 of this chapter).

E. Lower Income Housing Fee Option. In lieu of providing inclusionary units in a project, an applicant may pay the city's lower income housing fee as set forth in Chapter 17.40 of this title. (Ord. 1818 § 1, 2000)

Article III. Miscellaneous

17.44.090 Administration.

An applicant of a project subject to this chapter shall submit an affordable housing proposal stating the method by which it will meet the requirements of this chapter. The affordable housing proposal shall be submitted as part of the applicant's city development application (e.g., design review, planned unit development, etc.) to the planning division in a form approved by the city manager. The community development director may waive the requirement for submittal

of an affordable housing proposal for projects approved prior to the effective date hereof and/or for projects that have undergone considerable public review during which affordable housing issues were addressed.

The affordable housing proposal shall be reviewed by the city's housing commission at a properly noticed meeting open to the public. The housing commission shall make recommendations to the city council either accepting, rejecting or modifying the developer's proposal and the utilization of any incentives as outlined in this chapter. The housing commission may also make recommendations to the planning commission regarding the project as necessary to assure conformance with this chapter.

Acceptance of the applicant's affordable housing proposal is subject to approval by the city council, which may direct the city manager to execute an affordable housing agreement in a form approved by the city attorney. The city manager or his or her designee shall be responsible for monitoring the sale, occupancy and resale of inclusionary units. (Ord. 2000 § 1, 2009; Ord. 1818 § 1, 2000)

17.44.100 Conflict of interest.

The following individuals are ineligible to purchase or rent an inclusionary unit: (a) city employees and officials (and their immediate family members) who have policymaking authority or influence regarding city housing programs; (b) the project applicant and its officers and employees (and their immediate family members); and (c) the project owner and its officers and employees (and their immediate family members). (Ord. 1818 § 1, 2000)

17.44.110 Enforcement.

The city manager is designated as the enforcing authority. The city manager may suspend or revoke any building permit or approval upon finding a violation of any provision of this chapter. The provisions of this chapter shall apply to all agents, successors and assigns of an applicant. No building permit or final inspection shall be issued, nor any development approval be granted which does not meet the requirements of this chapter. In the event that it is determined that rents in excess of those allowed by operation of this chapter have been charged to a tenant residing in an inclusionary unit, the city may take appropriate legal action to recover, and the project owner shall be obligated to pay to the tenant, or to the city in the event the tenant cannot be located, any excess rents charged. (Ord. 1818 § 1, 2000)

17.44.120 Appeals.

Any person aggrieved by any action or determination of the city manager under this chapter, may appeal such action or determination to the city council in the manner provided in Chapter 18.144 of this code. (Ord. 1818 § 1, 2000)

Chapter 17.48

RIGHT TO FARM

Sections:

17.48.010 Findings and policy.

A. The city council finds that commercially viable agricultural land exists within the city, and that it is in the public interest to enhance and encourage economically viable agricultural operations within the city. The city council also finds that residential and commercial development adjacent to certain agricultural lands often leads to restrictions on agricultural operations to the detriment of the adjacent agricultural uses and the economic viability of the city's agricultural industry as a whole.

B. The purposes of this chapter are to promote public health, safety and welfare and to support and encourage continued agricultural operations. This chapter is not to be construed as in any way modifying or abridging state law as set forth in the California Civil Code, Health and Safety Code, Fish and Game Code, Food and Agricultural Code, Division 7 of the Water Code, or any other applicable provisions of state law relative to nuisances, rather it is only to be utilized in the interpretation and enforcement of the provision of this code and city regulations and provide a forum to discuss and resolve disputes to avoid litigation.

C. This chapter is to promote a good neighbor policy between agricultural and nonagricultural property owners by providing owners of property adjacent to or near agriculture operations a forum to discuss problems resulting from agricultural operations including, but not limited to, the noises, odors, dust, chemicals, smoke and hours of operation that may accompany agricultural operations. It is intended that, through a discussion forum, property owners will understand the impact of living adjacent to or, near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas and agricultural operations. (Ord. 1633 § 1, 1994)

17.48.020 Definitions.

A. "Agricultural land" shall mean all that real property within the city of Pleasanton currently zoned in the A (Agricultural) Zoning District or in another zoning district and may be used for "agricultural operations" as defined herein.

B. "Agricultural operation" shall mean and include, but not be limited to, the cultivation and tillage of the soil, dairying, the production, irrigation, frost protection, cultivation, growing, harvesting and processing of any agricultural commodity, including viticulture, horticulture, floriculture, nursery products, timber or apiculture, the raising of livestock, poultry and any commercial agricultural practices performed as incidental to or in conjunction with such operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market, consistent with all city regulations. (Ord. 1633 § 1, 1994)

17.48.030 Nuisance.

No present or future agricultural operation or any of its appurtenances conducted or maintained for commercial purposes and in a manner consistent with proper and accepted customs and standards of the agricultural industry on agricultural land shall become or be a nuisance, private or public, due to any changed condition of the use of adjacent land in or about the locality thereof, provided that the provisions of this section shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation and its appurtenances or if the agri-

erence guide, has become a leader in promoting and guiding green building. At the regional level, ACWMA has developed green building guidelines and green building rating systems for single-family and multi-family residences following a collaborative process with the development community.

F. Requiring certain commercial, residential, and city sponsored (civic) projects to incorporate LEED™ green building measures is necessary and appropriate to achieve the benefits of green building.

G. Health and Safety Code Sections 18938 and 17958 provide that the California Building Standards Code establish building standards for all occupancies throughout the state.

H. Many of the prerequisites and means of achieving credits under LEED™, the single-family green building rating system and the multi-family green building rating system do not impact areas where state law has established building standards. The city further finds that, for specific projects, the applicant may believe that achieving the LEED™, single-family or multi-family green building rating required by this chapter could require use of otherwise unauthorized building standards, and, accordingly, the city finds that it is appropriate to provide for an exemption from this chapter in such circumstances. (Ord. 1934 § 1, 2006)

17.50.030 Definitions.

For the purposes of this chapter, certain words and terms used are defined as follows:

A. "ACWMA" means the Alameda County waste management authority.

B. "ACWMA's Multi-family Green Building Guidelines" means a supporting document published by ACWMA that provides detailed information, resources, and standards for the multi-family green building rating system, including information regarding the documentation required for certification.

C. "ACWMA's New Home Construction Green Building Guidelines" means a supporting document published by ACWMA that provides detailed information, resources, and standards for the single-family green building rating system, including information regarding the documentation required for certification.

D. "Applicant" means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity that applies to the city for the applicable permits to undertake any covered project within the city.

E. "Building" means any structure used for support or shelter of any use or occupancy, as defined in the California Building Standards Code.

F. "City" means the city of Pleasanton.

G. "City sponsored project" means a building(s) primarily funded and sponsored by the city or on city owned land.

H. "Commercial project" means any retail, office, industrial, warehouse or service building(s) within city limits, which is not a city sponsored project, a residential project, or a mixed use project.

I. "Conditioned space" means an enclosed space in a building that is provided with a mechanical heating system that has a capacity exceeding 10 Btu/(hr. x $ft.^2$), or is provided with a mechanical cooling system that has a capacity exceeding five Btu/(hr. x $ft.^2$), unless the space conditioning system is designed and thermostatically controlled to maintain a process environment temperature less than 55 degrees Fahrenheit or to maintain a process environment temperature greater than 90 degrees Fahrenheit for the entire space the system serves.

J. "Construction" means the building of any structure or any portion thereof.

K. "Covered project" means: (1) construction of any city sponsored project; (2) construction of any commercial project that includes 20,000 gross square feet or more of conditioned space; (3) renovation of any commercial project or city sponsored project that adds 20,000 gross square feet or more of additional conditioned space, but not a renovation project that consists solely of interior improvements to an existing building; (4) construction of any single-family residential project that is 2,000 square feet or more in size; (5) construction of any multi-family residential project; (6) construction of any mixed use project; (7) additions to residential projects where the addition is 2,000 square feet or greater; or (8) additions of any size to residential projects where the residential project was less than 2,000 square feet when built and it has been less than five years from the date the certificate of oc-

cupancy was issued. Covered projects do not include historic buildings or privately owned commercial or mixed use buildings within the boundaries of the downtown specific plan (adopted March 5, 2002).

L. "Green building" means a whole systems approach to the design, construction, and operation of buildings that helps mitigate the environmental, economic, and social impacts of buildings. Green building practices recognize the relationship between natural and built environments and seek to minimize the use of energy, water, and other natural resources and provide a healthy, productive indoor environment.

M. "Green building compliance official" means the community development director or designee.

N. "Green building project checklist" means a checklist or scorecard developed for the purpose of calculating a score on the LEED™ commercial green building rating system, the single-family green building rating system or the multi-family green building rating system. Covered projects shall utilize the green building project checklist that corresponds with the green building rating system approved for use.

O. "Green building worksheet" means a worksheet or form developed by the green building compliance official and, as may be amended, which specifies information to be submitted prior to any hearing for design review or planned unit development design review approval for a covered project. The green building worksheet shall specify the form and content of the required documentation.

P. "Hardship" means circumstances, by some verifiable level of adversity or difficulty, by which an applicant would not be able to reasonably fulfill the obligations to meet the ordinance as determined by the green building compliance official.

Q. "Historic building" means any building listed on or eligible for listing on a national, state, or local register or listing of historic resources.

R. "Infeasible" means the existence of obstacles which render the applicant/developer incapable of fulfilling the obligations to meet this chapter as determined by the green building compliance official.

S. "LEED™ commercial green building rating system" means the most recent version of the leadership in energy and environmental design (LEED™) commercial green building rating system, or other related LEED™ rating system, approved by the U.S. Green Building Council. As new rating systems are developed by the U.S. Green Building Council, the green building compliance official shall have the authority to specify the applicable LEED™ commercial green building rating system for a covered project. For the first six months after the release of any new version of the LEED™ commercial green building rating system when the covered project is formally submitted to the planning division for approval with the payment of appropriate fees, the applicant shall be given the choice of using the most current version or the version to be superseded. city staff shall maintain the most recent version of the applicable LEED™ commercial green building rating systems at all times.

T. "LEED™ Commercial Green Building Reference Guide" means a supporting document published by the U.S. Green Building Council that provides detailed information, resources, and standards for the five environmental categories covered by the LEED™ commercial green building rating system, including information regarding the documentation required for LEED™ certification. city staff shall maintain the most recent version of the LEED™ reference guide at all times.

U. "Mixed use project" means a building(s) within city limits that combines the uses of a commercial project and a residential project.

V. "Multi-family green building rating system" means ACWMA's green building rating system for multi-family residential projects. As new rating systems are developed by ACWMA, the green building compliance official shall have the authority to specify the applicable multi-family green building rating system for a covered project. For the first six months after the release of any new version of the multi-family green building rating system when the covered project is formally submitted to the planning division for approval with the payment of appropriate fees, the applicant shall be given the choice of using the most current version or the version to be superseded.

W. "Multi-family residential project" means a residential project containing more than one attached dwelling unit, including duplexes, apartments, condominiums, and townhouses.

X. "Noncovered project" means: (1) renovation of any commercial project, city sponsored project, or residential project that consists solely of interior improvements to an existing building; (2) additions to historic buildings (commercial or residential); (3) privately owned commercial or mixed use buildings within the boundaries of the downtown specific plan (adopted March 5, 2002); or (4) any project not listed as a "covered project" in subsection K of this section.

Y. "Prepermitting documentation" means the documentation required by Section 17.50.050 of this chapter.

Z. "Renovation" means any change, addition, or modification to an existing building.

AA. "Residential project" means any building within city limits used for living, sleeping, eating, and cooking. For the purposes of this chapter, a residential project includes assisted living facilities and senior housing. A residential project does not include hotels, motels, inns, or similar commercial enterprises wherein rooms or suites of rooms are rented for transient occupancy and are considered commercial projects.

BB. "Single-family green building rating system" means ACWMA's green building rating system for single-family residential projects. As new rating systems are developed by ACWMA, the green building compliance official shall have the authority to specify the applicable single-family green building rating system for a covered project. For the first six months after the release of any new version of the single-family green building rating system when the covered project is formally submitted to the planning division for approval with the payment of appropriate fees, the applicant shall be given the choice of using the most current version or the version to be superseded.

CC. "Single-family residential project" means a residential project containing one dwelling unit.

DD. "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built or composed of parts joined together in some definite manner and permanently attached to the ground, as defined in the California Building Standards Code. (Ord. 2000 § 1, 2009; Ord. 1934 § 1, 2006)

17.50.040 Standard for compliance.

A. Covered Projects. All covered projects shall meet the following requirements:

1. All commercial projects shall meet a minimum LEED™ "certified" rating, except as modified by the provisions of subsection B of this section.

2. All city sponsored projects that are neither residential projects nor mixed use projects shall achieve a minimum LEED™ "certified" rating, except as modified by the provisions of subsection B of this section, and are encouraged to meet the "silver" rating.

3. All single-family residential projects, including any such city sponsored project, shall achieve a "green home" rating on the single-family green building rating system, which currently requires 50 points.

4. All multi-family residential projects, including any such city sponsored project, shall achieve a "green home" or similarly entitled minimum compliance rating on the multi-family green building rating system, which currently requires 50 points, unless the green building compliance official determines that the single-family green building rating system is more appropriate for the building, such as for a duplex that is not part of a larger project.

5. All mixed use projects, including any such city sponsored project, shall meet the requirements for a multi-family residential project, unless the green building compliance official determines that another rating system is more appropriate.

B. Actions Not Required.

1. LEED™ Registration And Certification. Applicants are encouraged to register commercial projects and other applicable covered projects with the U.S. Green Building Council. LEED™ certification through the U.S. Green Building Council is not required under this chapter.

2. Building Commissioning. Building commissioning, although specified as a prerequisite for all LEED™ ratings, is not required under this chapter. Applicants are encouraged to verify that fundamental building systems are designed, installed, and calibrated to operate as intended.

C. Noncovered Projects. Applicants for noncovered projects are encouraged to incorporate green building measures, but are not required to submit any documentation nor is there any verification of compliance.

D. Compliance as a Condition of Approval. Compliance with the provisions of this chapter shall be listed as a condition of approval on any design review or planned unit development design review approval issued for a covered project. Failure to comply with any of the terms of this chapter shall subject the covered project to the full range of enforcement mechanisms set forth in Section 17.50.100 of this chapter. (Ord. 1934 § 1, 2006)

17.50.050 Submission of prepermitting documentation.

A. Prepermitting Documentation. In conjunction with the application for design review or planned unit development design review, whichever is applicable, the applicant shall submit documentation indicating the measures to be used to achieve the applicable green building rating ("prepermitting documentation"). The city encourages the applicant to use a LEED™ accredited professional or similarly experienced person to prepare the prepermitting documentation. This documentation shall include:

1. The applicable green building project checklist;
2. The applicable green building worksheet with an analysis of each credit claimed; and
3. Any other documentation that may be necessary to show compliance with this chapter.

B. Review and Prehearing Meeting. After submission of the prepermitting documentation required by subsection A of this section, but prior to the hearing on the design review or planned unit development design review, the green building compliance official shall review the prepermitting documentation and arrange a meeting with the applicant to discuss the proposed green building measures, as needed. (Ord. 1934 § 1, 2006)

17.50.060 Review of prepermitting documentation.

A. Approval. The green building compliance official shall only approve the prepermitting documentation if it is determined that the prepermitting documentation indicates that the covered project can achieve the applicable green building rating, as set forth in Section 17.50.040 of this chapter. If the green building compliance official determines that these conditions have been met, the prepermitting documentation shall be marked "approved," and returned to the applicant. The green building compliance official shall provide a copy of the approved prepermitting documentation at the hearing on the design review or planned unit development design review and shall notify the building and safety division that the prepermitting documentation has been approved. No building permit shall be issued until the prepermitting documentation has been approved under this section or an exemption has been granted under Section 17.50.080 of this chapter.

B. Nonapproval. If the green building compliance official determines that the prepermitting documentation is incomplete or fails to indicate that the covered project will meet the required green building rating for the covered project as set forth in Section 17.50.040 of this chapter, he or she shall either:

1. Return the prepermitting documentation to the applicant marked "denied", including a statement of reasons, and so notify the building and safety division; or
2. Return the prepermitting documentation to the applicant marked "further explanation required", and detail the additional information needed.

C. Resubmission. If the prepermitting documentation is returned to the applicant, the applicant may resubmit the prepermitting documentation with such additional information as may be required or may apply for an exemption under Section 17.50.080 of this chapter.

D. Timing of Review. The green building compliance official shall review the green building project checklist and all other prepermitting documentation for compliance with this chapter prior to the hearing on design review or planned unit development design review, and again during plan check. (Ord. 1934 § 1, 2006)

C. Meeting with Green Building Compliance Official. The green building compliance official shall review the information supplied by the applicant, may request additional information from the applicant, and may meet with the applicant to discuss the request.

D. Granting of Exemption. If the green building compliance official determines that it is a hardship or infeasible for the applicant to meet fully the requirements of this chapter based on the information provided, the green building compliance official shall determine the maximum feasible number of credits reasonably achievable for the covered project and shall indicate this number on the prepermitting documentation submitted by the applicant. The green building compliance official shall return a copy of the prepermitting documentation to the applicant marked "approved with exemption." The green building compliance official shall provide a copy of the approved prepermitting documentation marked "approved with exemption" at the hearing on the design review or planned unit development design review and shall notify the building and safety division that the prepermitting documentation has been approved. If an exemption is granted, the applicant shall be required to comply with this chapter in all other respects and shall be required to achieve, in accordance with this chapter, the number of credits determined to be achievable by the green building compliance official. If an exemption is granted, the planning commission and the city council shall be notified of the action. Any member of the planning commission or city council may appeal the determination to grant or deny an exemption.

E. Denial of Exemption. If the green building compliance official determines that it is possible for the applicant to fully meet the requirements of this chapter, he or she shall so notify the applicant in writing. The applicant may resubmit the prepermitting documentation in full compliance with Sections 17.50.050 and 17.50.060 of this chapter. If the applicant does not resubmit the prepermitting documentation, or if the resubmitted prepermitting documentation does not comply with Sections 17.50.050 and 17.50.060 of this chapter, the green building compliance official shall deny the prepermitting documentation in accordance with Section 17.50.060(B) of this chapter. (Ord. 1934 § 1, 2006)

17.50.090 Appeal.

A. Any applicant or person may appeal the determination of the green building compliance official regarding: (1) the granting or denial of an exemption pursuant to Section 17.50.080 of this chapter; (2) compliance with this chapter pursuant to Section 17.50.070 of this chapter; or (3) the type or scope of mitigation measures required for noncompliance pursuant to Section 17.50.070(E)(3) of this chapter.

B. Appeals must be filed in writing with the city manager within 15 days of the determination by the green building compliance official. The appeal shall state the alleged error or reason for the appeal. In reviewing the appeal, the city manager may request additional written or oral information from the applicant or the green building compliance official. The city manager shall issue a written determination within 15 days of the receipt of the appeal.

C. The determination by the city manager may be appealed to the city council by filing a written appeal with the city clerk within 15 days of the written determination by the city manager. The city council shall hold a public hearing regarding the appeal within 40 days of the date when the appeal was filed. (Ord. 1934 § 1, 2006)

17.50.100 Enforcement.

A. Violation of any provision of this chapter due to the applicant's failure to build the covered project in accordance with the covered project's plans, including the prepermitting documentation and the conditions of approval in the applicable permit, shall be punishable as provided in Chapter 1.28 of this code.

B. Where the applicant has violated any provision of this chapter due to the applicant's failure to build the covered project in accordance with the project's plans, including the prepermitting documentation and the conditions of approval in the applicable permit, the green building compliance official may require mitigation as set forth in Section 17.50.070(E)(3) of this chapter.

C. Enforcement pursuant to this section shall be undertaken by the city through its community development director or the city attorney.

D. These remedies are cumulative and the choice of one by the city shall not preclude pursuing the others. (Ord. 2000 § 1, 2009; Ord. 1934 § 1, 2006)

Chapter 18.04

GENERAL PROVISIONS

Sections:

18.04.010 Objectives.

This title is to protect and to promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, this title is designed to achieve the following objectives:

A. To provide a precise guide for the physical development of the city in such a manner as to achieve progressively the arrangement of land uses depicted in the general plan adopted by the city council;

B. To foster a harmonious, convenient, workable relationship among land uses;

C. To promote the stability of existing land uses that conform with the general plan and to protect them from inharmonious influences and harmful intrusions;

D. To insure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the city as a whole;

E. To prevent excessive population densities and overcrowding of the land with structures;

F. To promote a safe, effective traffic circulation system;

G. To foster the provision of adequate off-street parking and off-street truck-loading facilities;

H. To facilitate the appropriate location of community facilities and institutions;

I. To promote commercial and industrial activities in order to strengthen the city's tax base;

J. To protect and enhance real property values;

K. To safeguard and enhance the appearance of the city. (Prior code § 2-5.01)

18.04.020 Nature of title.

This title shall consist of a zoning map designating certain districts and a set of regulations controlling the uses of land; the density of population, the bulk, locations and uses of structures; the areas and dimensions of sites; the appearance of certain uses, structures and signs; requiring provision of usable open space, screening and landscaping, and off-street parking and off-street loading facilities; and controlling the location, size and illumination of signs. The zoning map shall be maintained on file in the office of the zoning administrator. (Prior code § 2-5.02)

18.04.030 Interpretation.

A. In their interpretation and application, the provisions of this title shall be held to be minimum requirements. No provision of this title is intended to repeal, abrogate, annul, impair or interfere with any existing ordinance of the city, except as specifically repealed herein, provided that where this title imposes a greater restriction on the use of land or structures or the height or bulk of structures, or requires greater open spaces about structures, or greater areas or dimensions of sites, or greater restrictions on signs than is imposed or required by an existing ordinance, this title shall control.

B. This title is not intended to abrogate, annul, impair or interfere with any deed restriction, covenant, easement, or other agreement between parties, provided that where this title imposes a greater restriction on the use of land or structures or the height or bulk of structures, or requires greater open spaces about structures or greater areas or

dimensions of sites than is imposed or required by deed restriction, covenant, easement, or other agreement, this title shall control. (Prior code § 2-5.03)

18.04.040 Applicability.

A. This title shall apply to all property owned by private persons, firms, corporations or organizations except public streets and alleys. It shall also apply to property owned by the city; or by any agencies of the city; or by any local agency required to comply with this title by state law. However, this title shall not apply to property owned by the United States of America or any of its agencies; by the state of California or any of its agencies or political subdivisions not required by state law to comply with this title; or by any city (other than the city of Pleasanton), county or rapid transit district. All exempted agencies are urged to submit their proposed projects to the permit and review procedures set forth in this title and to cooperate in meeting the goals and objectives of this code and the general plan.

B. This title shall apply to structures and signs extending into or above streets or alleys, to railroad rights-of-way, to electric and communications distribution and service wires where prescribed in the district regulations; provided, however, that the routes or proposed electric or gas transmission lines shall be submitted to the planning commission for approval prior to the acquisition of right-of-way thereof. Upon review of the utility company's application and the community development director's proposed conditions for route approval, the planning commission may set a public hearing for purposes of considering alternate routes, or modifying any conditions vital to the public interest, which in the opinion of the planning commission requires a public hearing. (Ord. 2000 § 1, 2009; prior code § 2-5.04)

18.08.005 Generally.

For the purposes of this title, certain words and terms used in this title are defined as provided in this chapter. (Prior code Title 2, Ch. 1, Art. 2)

18.08.010 City boards, commissions and officials.

A. City Boards and Commissions.

1. "City" means the city of Pleasanton, Alameda County, California.
2. "City council" and "council" mean the city council of the city of Pleasanton.
3. "City planning commission," "planning commission" and "the commission" mean the planning commission duly appointed by the city council of the city of Pleasanton.

B. City Officials.

1. "Building inspector" means the building inspector of the city of Pleasanton.
2. "Chief of police" means the chief of police of the city of Pleasanton.
3. "City attorney" means the city attorney of the city of Pleasanton.
4. "City clerk" means the city clerk of the city of Pleasanton.
5. "City engineer" means the city engineer of the city of Pleasanton.
6. "Community development director" means the community development director of the city of Pleasanton, or designee.
7. "Operations services director" means the operations services director of the city of Pleasanton, or designee.
8. "Secretary" means the secretary of the city planning commission.
9. "Zoning administrator" means the zoning administrator of the city of Pleasanton, or his or her deputy designated by the city manager of the city of Pleasanton. (Ord. 2000 § 1, 2009; prior code § 2-5.16)

18.08.015 Access corridor.

"Access corridor" means a portion of the site providing access from a street and having a minimum dimension less than the required site width, except that no portion of a site having side lot lines radial to the center of curvature of a street from the street property line to the rear lot line shall be deemed an access corridor. The area of an access corridor shall not be included in determining the area of a site. (Prior code § 2-5.17(a))

18.08.020 Alley.

"Alley" means a public way permanently reserved primarily for vehicular service access to the rear or side of properties otherwise abutting on a street. (Prior code § 2-5.17(b))

18.08.025 Alter.

"Alter" means to make a change in the supporting members of a structure, such as bearing walls, columns, beams or girders, which will prolong the life of the structure. (Prior code § 2-5.17(c))

18.08.030 Amateur radio facility.

"Amateur radio facility" means antennas and related equipment for the purpose of self-training, intercommunication, or technical investigations carried out by an amateur radio operator who is interested in radio technique solely for personal interests and without pecuniary interest, who holds a written authorization from the federal communications commission to operate an amateur radio facility. (Ord. 1743, 1998)

18.08.035 Antenna.

"Antenna" means any system of poles, panels, rods, or similar devices used for the transmission and reception of radio frequency signals. (Ord. 1743, 1998)

18.08.040 Antenna, façade mounted.

"Antenna, façade mounted" means an antenna that is directly attached or affixed to any façade of a building. (Ord. 1743, 1998)

18.08.045 Antenna, ground mounted.

"Antenna, ground mounted" means an antenna with its support structure placed directly on the ground. (Ord. 1743, 1998)

18.08.050 Antenna, roof mounted.

"Antenna, roof mounted" means an antenna generally freestanding, directly attached or affixed to the roof of an existing building or structure other than a personal wireless service facility tower. (Ord. 1743, 1998)

18.08.590 Use.

"Use" means the purpose for which a site or structure is arranged, designed, intended, constructed, erected, moved, altered or enlarged, or for which either a site or a structure is or may be occupied or maintained. (Prior code § 2-5.30(e))

18.08.595 Use, accessory.

"Accessory use" means a use which is appropriate, subordinate, and customarily incidental to the main use of the site and which is located on the same site as the main use. (Prior code § 2-5.31(a))

18.08.600 Width.

"Width" means the horizontal distance between the side property lines of a site measured at right angles to the depth at a point midway between the front and rear property lines. (Prior code § 2-5.31(c))

18.08.605 Wind energy facility.

"Wind energy facility" means one or more electrical power generators that convert wind into electricity through the utilization of a shaft turned by blades or similar structure, which are turned by wind. (Ord. 1880, 2003)

18.08.607 Yard.

"Yard" means an open space on the same site as a structure, unoccupied and unobstructed by structures from the ground upward or from the floor level of the structure requiring the yard upward, except as otherwise provided in this chapter, including a "front yard," "side yard," "rear yard" or space between structures. (Ord. 1880, 2003; prior code § 2-5.31(d))

18.08.610 Yard, front.

"Front yard" means a yard extending across the full width of a site, the depth of which is the minimum horizontal distance between the front property line and a line parallel thereto on the site. (Prior code § 2-5.31(e))

18.08.615 Yard, rear.

"Rear yard" means a yard extending across the full width of a site, the depth of which is the minimum horizontal distance between the rear property line and a line parallel thereto on the site. (Prior code § 2-5.32(a))

18.08.620 Yard, side.

"Side yard" means a yard extending from the rear line of the required front yard or the front property line of the site where no front yard is required, to the front line of the required rear yard, or the rear property line of the site where no rear yard is required, the width of which is the minimum horizontal distance between the side property line and a line parallel thereto on the site. On the street side of a corner lot the side yard shall extend from the rear line of the required front yard, or the front property line where no front yard is required, to the rear property line of the site. (Ord. 1182 § 2, 1985; prior code § 2-5.32(b))

Chapter 18.12

ADMINISTRATIVE PROVISIONS

Sections:

Article I. Generally

18.12.010 Permits, certificates and licenses.

All officials, departments and employees of the city vested with the authority or duty to issue permits, certificates or licenses shall comply with the provisions of this chapter and shall issue no permit, certificate or license which conflicts with the provisions of this chapter. Any permit, certificate or license issued in conflict with the provisions of this chapter shall be void. (Prior code § 2-12.20)

18.12.020 Duties of city officials.

The chief building official and zoning administrator shall be the officials responsible for the enforcement of this title. The chief building official and zoning administrator, or their deputies, shall have the right to enter on any site or to enter any structure for the purpose of investigation and inspection related to any provision of this title; provided, that the right of entry shall be exercised only at reasonable hours and that in no case shall any structure be entered in the absence of the owner or tenant without the written order of a court of competent jurisdiction. The chief building official or zoning administrator may serve notice requiring the removal of any structure or use in violation of the regulations on the owner or his or her authorized agent, on a tenant, or on an architect, builder, contractor, or other person who commits or participates in any violation. The chief building official or the zoning administrator may call upon the city attorney to institute necessary legal proceedings to enforce the provisions of this title, and the city attorney is authorized to institute appropriate actions to that end. The chief building official or the zoning administrator may call upon the chief of police and his or her authorized agents to assist in the enforcement of this title. (Ord. 2000 § 1, 2009; Ord. 1425 § 1 (part), 1989: prior code § 2-12.21)

18.12.030 Administrative extension of approvals.

A. Prior to the lapse of any approval granted by an approving body under this title, an applicant or his or her successor may apply to the zoning administrator for an extension of the approval for one year. The zoning administrator

may grant an extension subject to the provisions of this section. No more than two such extensions shall be granted. Further applications for extension shall be processed as though they were initial applications.

B. An application for extension shall be accompanied by a fee equal to the current fee for an initial application as established by the city council. An application for extension shall be granted unless the zoning administrator determines that there have been either substantial changes in the proposal or that the circumstances surrounding the initial approval have changed. Rather than take action administratively, the zoning administrator may forward any application for extension, or any aspect thereof, to the appropriate approving body as though it were an initial application. In such cases the approving body may grant the extension, modify the approval as originally granted or deny the extension in accord with the purposes and objectives of this title.

C. Within five days of the granting of any approval extension under this section, the zoning administrator shall forward notice of the action to the planning commission and the city council. Any member of the planning commission or city council may within seven days after such notification request that the action of the zoning administrator be reviewed by appropriate approving body. Such review shall occur at the next available meeting of the appropriate approving body and shall be considered as an action on an initial application for approval under the appropriate provisions of this title. (Prior code § 2-12.24)

18.12.040 Public hearing—Time and notice.

The zoning administrator shall set the time and place of public hearings required by this title to be held by the city planning commission or the board of adjustment, provided that the commission or the board may change the time or place of a hearing. The city clerk shall set the time and place of public hearings required by this title to be held by the city council, provided that the council may change the time or place of a hearing. Public hearings shall be held not more than 40 days after submission of the applicant or the appeal from a decision unless the applicant or appellant shall consent to an extension of time. Notice of a public hearing shall be given not less than 10 days nor more than 30 days prior to the date of the hearing by publication in a newspaper of general circulation in the city. When the hearing concerns a matter other than an amendment to the text of this chapter or a general plan amendment, notice also shall be given by posting in conspicuous places close to the property affected or by mailing a notice of the time and place of the hearing to the applicant, if any, and to all persons whose names appear on the latest adopted tax roll of the county as owning property in the vicinity of the area that is the subject of the hearing. The zoning administrator shall determine the number and location of posted notices or the area within which property owners are to be notified by mail. Failure to post or mail notices shall not invalidate the proceedings. (Prior code § 2-5.08)

Article II. Zoning Certificate and Certificate of Occupancy

18.12.050 Zoning certificate—Purpose.

A. To ensure that each new or expanded use of a structure or site and each new structure or alteration of an existing structure complies with all applicable provisions of this title, and in order that the city may have a record of each new or expanded use of a structure or site, a zoning certificate is required before any building permit may be issued or any structure or site used; and a certificate of occupancy required by the building code shall be issued only for a structure that conforms with the zoning certificate.

B. To ensure that each new sign or enlargement or change in the design or lighting of certain signs specified in Section 18.96.130, complies with all applicable provisions of this title, a zoning certificate is required before the sign may be displayed or altered. (Prior code § 2-11.38)

18.12.060 Zoning certificate—Application and issuance.

Application for a zoning certificate shall be made on a form prescribed by the city planning commission and shall be accompanied by plans and additional information as necessary, in the opinion of the zoning administrator, to demonstrate conformity with this title. The zoning administrator shall check the application and all data submitted with it and shall issue a zoning certificate if he or she finds that all provisions of this title will be complied with. (Prior code § 2-11.39)

18.12.070 Issuance of building permit.

The chief building official or designee shall not issue a building permit until the zoning administrator has approved a zoning certificate for the structure which is the subject of the building permit. (Ord. 2000 § 1, 2009; Ord. 1425 § 1 (part), 1989: prior code § 2-11.40)

18.12.080 Certificate of occupancy—Issuance.

A. The chief building official shall not issue a certificate of occupancy for a structure or alteration until he or she has found that the structure or alteration conforms with the zoning certificate, until all required screening and landscaping and off-street parking and loading facilities are complete, and he or she has found that all conditions attached to a use permit, a variance and design review have been met, provided that the chief building official may issue a certificate of occupancy prior to fulfillment of all requirements of this chapter if a faithful performance bond in an amount determined by the chief building official to be sufficient to complete the work necessary to meet requirements is filed with the city. Cash in the amount of the faithful performance bond may be deposited with the city in lieu of the bond.

B. A temporary certificate of occupancy may be issued by the chief building official prior to the time that all of the requirements for a certificate of occupancy have been met, provided that no permit other than a temporary permit shall be issued for gas or electric utilities until the chief building official determines that all of the requirements for a certificate of occupancy have been met. A temporary permit for gas or electric utilities shall be valid for 10 working days, and may be renewed upon application to the chief building official for not more than two additional periods of 10 working days. If temporary permits for gas or electric utilities expire without the requirements for issuance of a certificate of occupancy having been met, the chief building official shall request the public utility to discontinue service. (Ord. 2000 § 1, 2009; Ord. 1425 § 1 (part), 1989; prior code § 2-11.41)

18.12.090 Determination of compliance with required conditions.

If the zoning administrator is unable to determine from information submitted by the applicant that a proposed use will comply with the required conditions for the district in which it is to be located, he or she shall not issue a zoning certificate, but shall request the applicant to authorize the city to secure expert professional advice from firms or individuals acceptable to both the city and the applicant. Professional fees shall be paid by the applicant. The zoning administrator may require that the applicant agree to pay professional fees for necessary investigations to determine compliance with required conditions prior to and after issuance of a certificate of occupancy. (Prior code § 2-11.42)

Article III. Moratorium

18.12.100 Designated.

Where land use has been approved on the effective date of Ordinance No. 520, May 3,1968, there shall be a moratorium as to those requirements set forth in this article. (Prior code § 2-11.46)

18.12.110 Applicability of article.

This article shall apply only where the land is subject to controls, as follows:

A. Approved tentative maps, so long as the maps shall not have expired by time or by refusal of the city to extend time;

B. Final tract maps;

C. Planned unit development permits, until expiration date, but in no event later than July 1, 1972. (Prior code § 2-11.47)

1. Small electricity generator facilities located on the same site as multi-family dwellings, a charitable institution, religious institution, golf course, hospital, sanitarium, lodging house, motel, nursery school, nursing home, senior care/assisted living facility, private recreation park, private swim club, private school, private noncommercial club, or public facility and that meet the following criteria:
    a. The fuel source for the generators shall be natural gas, bio diesel, or the byproduct of an approved cogeneration or combined cycle facility;
    b. The facilities shall use the best available control technology to reduce air pollution;
    c. The facilities shall not create any objectionable odors at any point outside of the property plane where the facilities are located;
    d. The facilities shall not exceed a noise level of 45 dBA at any point on any residentially zoned property outside of the property plane where the facilities are located; and
    e. On a site with fuel cell facilities, small electricity generator facilities shall not be permitted unless the aggregate wattage of the two facilities is less than one megawatt. If the aggregate wattage of the two facilities is one megawatt or greater, the small electricity generator facilities shall be subject to all requirements and processes prescribed in this title for medium or large electricity generator facilities, whichever is the most applicable, in the subject zoning district;
    f. The facilities shall be cogeneration or combined cycle facilities, if feasible;
2. Small fuel cell facilities that meet the following criteria:
    a. The facilities shall not create any objectionable odors at any point outside of the property plane where the facilities are located;
    b. The fuel cell facilities shall not exceed a noise level of 45 dBA at any point on any residentially zoned property outside of the property plane where the facilities are located; and
    c. On a site with electricity generator facilities, small fuel cell facilities shall not be permitted unless the aggregate wattage of the two facilities is less than one megawatt. If the aggregate wattage of the two facilities is one megawatt or greater, the small fuel cell facilities shall be subject to all requirements and processes prescribed in this title for medium or large fuel cell facilities, whichever is the most applicable, in the subject zoning district;

    Small fuel cell facilities are encouraged to be cogeneration or combined cycle facilities.

N. Home occupations conducted in accord with the regulations prescribed in Chapter 18.104 of this title.

O. Large family daycare homes in accordance with the provisions of Chapter 18.124, Article II of this title.

P. Small bed and breakfasts and bed and breakfast inns in accordance with provisions of Chapter 18.124 of this title. (Ord. 1885 § 2, 2003; Ord. 1880, 2003; Ord. 1812, 2000; Ord. 1743, 1998; Ord. 1690 § 4, 1996; Ord. 1636 § 6, 1994; Ord. 1153 §§ 1, 2, 1984; Ord. 1126 § 8, 1984; prior code § 2-6.25)

18.36.045 Temporary conditional uses.

The following conditional uses shall be permitted in RM districts upon the granting of a temporary conditional use permit in accord with the provisions of Section 18.116.050 of this title:

A. Christmas tree sales lots. (Ord. 1443 § 2, 1989)

18.36.050 Prohibited uses.

The following uses shall not be permitted in the RM districts:

A. Any use not specifically or conditionally permitted by this chapter, unless a determination is made under Chapter 18.128 of this title.

B. Barbed wire fences or any fence which has attached to it, for purposes of prohibiting people or animals from climbing the same, barbed wire regardless of type, with the following exceptions:

1. Where this title specifically allows for the keeping of horses,
2. Where property, although zoned for residential use, has not yet developed pursuant to that zoning and, thus, a great deal of open acreage still remains and is used for the keeping of horses and other animals included in the agricultural district, such usage becoming nonconforming as a result of the change in zoning.

C. Gunsmiths.

D. Firearm sales.

E. Any process, equipment or material which has been determined by the planning commission to be detrimental or harmful to the public health, safety or welfare or injurious to property. This determination shall be made at a public hearing set and noticed pursuant to Section 18.12.040 of this title and shall be subject to review by or appeal to the city council as set forth in Section 18.124.090 of this title. (Ord. 1880, 2003; Ord. 1738 § 1, 1998; prior code § 2-6.25(a))

18.36.060 RM-1,500 district—Reduced site area per dwelling unit with parking under or within structure.

In an RM-1,500 district where all required parking is located under or within the same structure as the dwelling units served, one dwelling unit shall be permitted for each 1,200 square feet of site area. (Prior code § 2-6.26)

18.36.070 Underground utilities.

Electric and communication service wires to a new structure shall be placed underground from the nearest utility pole. If the city engineer finds upon application by the property owner, that compliance is not feasible or economically justifiable, he or she shall permit different service arrangements. The property owner shall comply with the requirements of this section without expense to the city and shall make the necessary arrangements with the public utility involved. (Ord. 2000 § 1, 2009; prior code § 2-6.27)

18.36.080 Off-street parking.

Off-street parking facilities shall be provided for each use in the RM districts as prescribed in Chapter 18.88 of this title. (Prior code § 2-6.28)

18.36.090 Off-street loading.

Off-street loading facilities shall be provided for each use in the RM districts as prescribed in Chapter 18.92 of this title. (Prior code § 2-6.29)

18.36.100 Signs.

No sign, outdoor advertising structure, or display of any character shall be permitted in the RM districts except as prescribed in Chapter 18.96 of this title. (Prior code § 2-6.30)

18.36.110 Design review.

All uses shall be subject to design review as prescribed in Chapter 18.20 of this title. Applicants are advised to confer with the zoning administrator before preparing detailed plans. (Ord. 1656 § 1, 1995; prior code § 2-6.31)

Chapter 18.40

O OFFICE DISTRICT

Sections:

18.40.010 Purpose.

In addition to the objectives prescribed in Section 18.04.010 of this title, the O office district is included in this title to achieve the following purposes:

A. To provide opportunities for offices of a semicommercial character to locate outside of commercial districts;

B. To establish and maintain in portions of the city the high standards of site planning, architecture and landscape design sought by many business and professional offices;

C. To provide adequate space to meet the needs of modern offices, including off-street parking of automobiles and, where appropriate, off-street loading of trucks;

D. To provide space for semipublic facilities and institutions that appropriately may be located in office districts;

E. To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them;

F. To protect offices from the noise, disturbance, traffic hazards, safety hazards, and other objectionable influences incidental to certain commercial uses;

G. To protect offices from fire, explosion, noxious fumes and other hazards. (Prior code § 2-6.35)

18.40.020 Required conditions.

A. All uses shall comply with the regulations prescribed in Chapter 18.84 of this title;

B. All professional pursuits and businesses shall be conducted entirely within a completely enclosed structure, except for off-street parking and loading areas;

C. No use shall be permitted, and no process, equipment or material shall be employed which is found by the planning commission to be objectionable to persons residing or working in the vicinity or injurious to property located in the vicinity by reason of odor, insect nuisance, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare, unsightliness or truck traffic, or to involve any hazard of fire or explosion. (Prior code § 2-6.36)

18.40.030 Permitted uses.

The following uses shall be permitted in the O District:

A. Offices of the following types:

1. Administrative headquarters and executive offices.

2. Business offices, including wholesaling establishments without stock, and not including the retail sale of any commodity on the premises.
3. Business service offices, including employment agencies, accountants, notaries, stenographic, addressing, computing, and related services.
4. Consulting service offices, business and professional.
5. Design professions offices not including retail sales on the premises.
6. Insurance offices.
7. Investment service offices.
8. Legal service offices.
9. Massage establishments where three or fewer massage technicians provide massage services at any one time. Massage establishments shall meet the requirements of Chapter 6.24.
10. Medical, dental and related health services offices, including laboratories rendering services only and not involving the manufacture, fabrication or sale of any article or commodity other than those incidental to the services provided.
11. Public utility consumer service offices.
12. Real estate, title company, and related service offices.
13. Research service offices, analytical and scientific, not involving the manufacture, fabrication, procession or sale of products on the premises.
14. Travel agencies.

B. Prescription pharmacies, provided that at least 80 percent of the interior display area shall be used for the preparation and sale of prescription or trade drugs.

C. Charitable institutions.

D. Churches and other religious institutions.

E. Private noncommercial clubs and lodges.

F. Mortuaries.

G. Nursing homes and senior care/assisted living facilities if located a minimum of 300 feet away from any personal wireless service facility approved after the adoption of the city's Personal Wireless Service Facility Ordinance, Chapter 18.110 of this title, not including those personal wireless service facilities exempted in Section 18.110.010 of this title.

H. Parking facilities improved in conformity with the standards prescribed in Chapter 18.88 of this title relating to standards for off-street parking facilities.

I. Any other use which is determined by the planning commission, as provided in Chapter 18.128 of this title, to be similar to the uses listed in this section.

J. Accessory structures and uses located on the same site as a permitted use and the following accessory structures and uses located on the same site with a permitted use or with a conditional use which has been granted a use permit in accord with the provisions of Chapter 18.124 of this title:

1. Emergency standby electricity generator, fuel cell, and/or battery facilities provided that the facilities shall be tested from 8:00 a.m. to 5:00 p.m. Monday through Friday or from 10:00 a.m. to 12:00 noon on Saturday or Sunday only; the facilities shall not be tested for more than one hour during any day, and no testing shall be on "Spare The Air Days" in Alameda County.
2. Photovoltaic facilities.
3. Small electricity generator facilities that meet the following criteria:
    a. The fuel source for the generators shall be natural gas, bio diesel, or the byproduct of an approved cogeneration or combined cycle facility;

b. The facilities shall use the best available control technology to reduce air pollution;

c. The facilities shall not create any objectionable odors at any point outside of the property plane where the facilities are located;

d. The facilities shall not exceed a noise level of 45 dBA at any point on any residentially zoned property outside of the property plane where the facilities are located; and

e. On a site with fuel cell facilities, small electricity generator facilities shall not be permitted unless the aggregate wattage of the two facilities is less than one megawatt. If the aggregate wattage of the two facilities is one megawatt or greater, the small electricity generator facilities shall be subject to all requirements and processes prescribed in this title for medium or large electricity generator facilities, whichever is the most applicable, in the subject zoning district;

f. The facilities shall be cogeneration or combined cycle facilities, if feasible.

4. Small fuel cell facilities that meet the following criteria:

a. The facilities shall not create any objectionable odors at any point outside of the property plane where the facilities are located;

b. The fuel cell facilities shall not exceed a noise level of 45 dBA at any point on any residentially zoned property outside of the property plane where the facilities are located; and

c. On a site with electricity generator facilities, small fuel cell facilities shall not be permitted unless the aggregate wattage of the two facilities is less than one megawatt. If the aggregate wattage of the two facilities is one megawatt or greater, the small fuel cell facilities shall be subject to all requirements and processes prescribed in this title for medium or large fuel cell facilities, whichever is the most applicable, in the subject zoning district;

Small fuel cell facilities are encouraged to be cogeneration or combined cycle facilities.

K. Financial institutions including banks, savings and loan associations, finance companies, credit unions and related services.

L. Private schools, if located a minimum of 300 feet away from any personal wireless service facility approved after the adoption of the city's personal wireless service facility ordinance, Chapter 18.110 of this title, not including those personal wireless service facilities exempted in Section 18.110.010 of this title; and tutorial schools, and colleges, including music and dance studios not less than 150 feet from an R district with no more than 20 students in the private school, tutorial school, college, music studio, or dance studio, at any one time shall be permitted uses subject to the following conditions:

1. The facility shall adhere to all occupancy, ADA, California Building Code, and exiting requirements;

2. The zoning administrator finds that adequate parking is available for such use.

The standard city noise ordinance applies. (Ord. 1995 § 2, 2009; Ord. 1950 § 2 (Exh. A), 2007; Ord. 1880, 2003; Ord. 1743, 1998; Ord. 1726 § 1, 1997; Ord. 1668 § 1, 1995; prior code § 2-6.37)

18.40.040 Conditional uses.

The following conditional uses shall be permitted in the O district upon the granting of a use permit in accord with the provisions of Chapter 18.124 of this title:

A. Hospitals and sanitariums, not including hospitals or sanitariums for mental, drug addict or liquor addict cases.

B. Restaurants, including on-sale liquor and soda fountains, not including drive-in establishments or establishments providing entertainment.

C. Private schools, if located a minimum of 300 feet away from any personal wireless service facility approved after the adoption of the city's personal wireless service facility ordinance, Chapter 18.110 of this title, not including those personal wireless service facilities exempted in Section 18.110.010 of this title, and tutorial schools, and colleges, including music and dance studios not less than 150 feet from an R district which cannot meet the crite-

ria for private schools, tutorial schools, colleges, music studios, and dance studios as written in Section 18.40.030.

D. Public utility and public service facilities including pumping stations, power transmission stations, power distribution stations, equipment buildings, service yards, drainageways and structures, water reservoirs, percolation basins, well fields, and storage tanks. These facilities must be found by the planning commission to be necessary for the public health, safety, or welfare.

E. Accessory structures and uses located on the same site as a conditional use and the following accessory structures and uses located on the same site as a permitted use or a conditional use that has been granted a use permit:

1. Medium electricity generator facilities that meet the applicable standards of Section 18.124.290 of this title.

2. Medium fuel cell facilities that meet the applicable standards of Section 18.124.290 of this title.

F. Barbershops.

G. Massage establishments where four or more massage technicians provide massage services at any one time. Massage establishments shall meet the requirements of Chapter 6.24. (Ord. 1995 § 2, 2009; Ord. 1950 § 2 (Exh. A), 2007; Ord. 1880, 2003; Ord. 1743, 1998; Ord. 1726 § 1, 1997; Ord. 1668 § 1, 1995; prior code § 2-6.38)

18.40.050 Prohibited uses.

The following uses shall not be permitted in the office district:

A. Any use not specifically or conditionally permitted by this chapter, unless a determination is made under Chapter 18.128 of this title.

B. Firearm sales. (Ord. 1880, 2003; Ord. 1738 § 1, 1998)

18.40.060 Underground utilities.

Electric and communication service wires to a new structure shall be placed underground from the nearest utility pole. If the city engineer finds, upon application by the property owner, that compliance is not feasible or economically justifiable, he or she shall permit different service arrangements. The property owner shall comply with the requirements of this section without expense to the city and shall make the necessary arrangements with the public utility involved. (Ord. 2000 § 1, 2009; Ord. 1738 § 1, 1998; prior code § 2-6.39)

18.40.070 Off-street parking.

Off-street parking facilities shall be provided for each use in the O district as prescribed in Chapter 18.88 of this title. (Ord. 1738 § 1, 1998; prior code § 2-6.40)

18.40.080 Off-street loading.

Off-street loading facilities shall be provided for each use as prescribed in Chapter 18.92 of this title. (Ord. 1738 § 1, 1998; prior code § 2-6.41)

18.40.090 Signs.

No sign, outdoor advertising structure or display of any character shall be permitted in the O district except as prescribed in Chapter 18.96 of this title. (Ord. 1738 § 1, 1998; prior code § 2-6.42)

18.40.100 Design review.

All permitted and conditional uses in the O district shall be subject to design review as prescribed in Chapter 18.20 of this title. Applicants are advised to confer with the zoning administrator before preparing detailed plans. (Ord. 1738 § 1, 1998; prior code § 2-6.43)

Chapter 18.44

C COMMERCIAL DISTRICTS

Sections:

18.44.010 Purpose.

In addition to the objectives prescribed in Section 18.04.010 of this title, the C commercial districts are included in this title to achieve the following purposes:

A. To provide appropriately located areas for retail stores, offices, service establishments, amusement establishments, and wholesale businesses, offering commodities and services required by residents of the city and its surrounding market area;

B. To provide opportunities for retail stores, offices, service establishments, amusement establishments, and wholesale businesses to concentrate for the convenience of the public and in mutually beneficial relationship to each other;

C. To provide space for community facilities and institutions that appropriately may be located in commercial areas;

D. To provide adequate space to meet the needs of modern commercial development, including off-street parking and truck loading areas;

E. To minimize traffic congestion and to avoid overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them;

F. To protect commercial properties from noise, odor, dust, dirt, smoke, vibration, heat, glare, heavy truck traffic, and other objectionable influences incidental to industrial uses;

G. To protect commercial properties from fire, explosion, noxious fumes, and other hazards. (Prior code § 2-7.00)

18.44.020 Special purpose—C-N neighborhood commercial district.

The purpose of the C-N neighborhood commercial district is as follows:

A. To provide appropriately located areas for retail stores, offices, and personal service establishments patronized primarily by residents of the immediate area;

B. To permit development of neighborhood shopping centers of the size and in the appropriate locations shown on the general plan, according to standards that minimize adverse impact on adjoining residential uses. (Prior code § 2-7.01)

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
2. Medium fuel cell facilities that meet the applicable standards of Section 18.124.290 of this title	C	C	C	C	C	C	C
Adult entertainment establishments (see Chapter 18.114 of this title)	P	P		P	P		
Ambulance services				C	P		
Amusement parks					C		
Antique stores, no firearm sales				P			
Antique stores with sales of antique firearms				C			
Appliance sales and repair, provided repair services shall be incidental to retail sales	P	P		P	P		
Art galleries and artists' supply stores	P	P	P	P			
Auction rooms				C	C	C	
Automobile racing stadiums and drag strips					C		
Automobile rental, sales and/or leasing; no service	P			P	C	C	P
Automobile repairing, overhauling and painting		C			C		P
Automobile sales and service including new and used car sales		P			C	C	P
Automobile supply stores, no service or shop work	P	P	C	P	P		P
Automobile upholstery and top shops						C	P
Barbershops and beauty shops	P	P	P	P			
Bars and brew pubs, as defined in Chapter 18.08 of this title	C	C		C		C	
Beauty shops including massage services of four or more massage technicians at any one time. Massage establishments within a beauty shop shall meet the requirements of Chapter 6.24.	C	C	C	C			
Beauty shops or beauty shops including massage services of three or fewer massage technicians at any one time. Massage establishments within a beauty shop shall meet the requirements of Chapter 6.24.	P	P	P	P			
Bed and breakfast inns				C			
Bicycle shops	P	P	P	P	P		
Birthing center				C			
Blacksmiths' shops, not less than 300 feet from an R or O district				C	C		
Boat sales, service and repair					C	C	P
Boat sales, no service or repair	P				P		
Bookbinding					C	C	
Bookstores and rental libraries	P	P	P	P			
Bottling works					C		
Bowling alleys	P	C		C	C		
Building materials sales		C			C		

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
Bus depots, provided buses shall not be stored on-site and no repair work shall be conducted on-site		P		P	P	P	
Candy stores	P	P	P	P			
Carpet, drapery and floor-covering stores	P	P	C	P	P		
Carpet and rug cleaning and dyeing					C		
Catalog stores, no firearm sales	P	P		P			
Catalog stores with firearm sales	C	C		C	C		
Catering establishments	P	P	P	P	P		
Charitable institutions and operations, including, but not limited to, lodging houses or dormitories providing temporary quarters for transient persons, organizations devoted to collecting or salvaging new or used materials, or organizations devoted principally to distributing food, clothing and other supplies on a charitable basis and other similar charitable operations				C	C		
Childcare centers, if located a min- mum of 300 feet away from any personal wireless service facility approved after the adoption of the city's Personal Wireless Service Facility Ordinance, Chapter 18.110 of this title, not including those personal wireless service facilities exempted in Section 18.110.010 of this title, and provided that state-mandated outdoor play areas face new or existing landscaping sufficient to buffer the play area from view, are separated from customer parking areas by a heavy wood fence or comparable barrier, are isolated from loading docks and associated delivery truck circulation areas, and contain landscaping for outdoor children's activities	C	C	C				
Christmas tree sales lots	P	TC	TC	TC	TC	TC	TC
Churches, parsonages, parish houses, monasteries, convents and other religious institutions				C			
Circuses, carnivals and other transient amusement enterprises	P	TC	TC	TC	TC	TC	TC
Clothing and costume rental establishment	P	P	P	P			
Clothing, shoe and accessory stores	P	P	P	P			
Columbariums and crematories, not less than 300 feet from an R district					C		
Commercial radio and television aerials, antennas, and transmission towers with design review approval specified under Chapter 18.20 of this title, having a minimum distance of 300 feet from the property lines of all of the following:	P			P	P		

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
1. Existing or approved residences or agricultural zoning districts or in planned unit developments with a residential or agricultural zoning designation;							
2. Undeveloped residential or agricultural zoning districts or undeveloped planned unit developments with a residential or agricultural zoning designation and without an approved development plan, unless designated as a public and institutional land use in the general plan;							
3. Existing or approved public schools, private schools, and childcare centers, not including schools which only provide tutorial services;							
4. Neighborhood parks, community parks, or regional parks, as designated in the general plan; and							
5. Existing or approved senior care/assisted living facilities, including nursing homes.							
All commercial radio and television aerials, antennas, and transmission towers shall be located so as to minimize their visibility and, unless determined by the zoning administrator to be significantly hidden from view, designed to ensure that they will not appear as an aerial, antenna, and/or transmission tower. All such facilities determined by the zoning administrator to be visible from residential land uses, the I-580 and/or I-680 rights-of-way, or other sensitive land uses such as parks, schools, or major streets, shall incorporate appropriate stealth techniques to camouflage, disguise, and/or blend them into the surrounding environment, and shall be in scale and architecturally integrated with their surroundings in such a manner as to be visually unobtrusive. All applications for commercial radio and/or television aerials, antennas, and transmission towers shall include engineering analyses completed to the satisfaction of the zoning administrator. Said analyses shall be peer-reviewed by an outside consultant.							
If mounted on structures or on architectural details of a building, these facilities shall be treated to match the existing architectural features and colors found on the building's architecture through design, color, texture, or other measures deemed to be necessary by the zoning administrator.							

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
Roof-mounted aerials and antennas shall be located in an area of the roof where the visual impact is minimized. Roof-mounted and ground-mounted aerials, antennas, and transmission towers shall not be allowed in the direct sightline(s) or sensitive view corridors, or where they would adversely affect scenic vistas, unless the facilities incorporate the appropriate, creative techniques to camouflage, disguise, and/or blend them into the surrounding environment, as determined to be necessary by the zoning administrator.							
All commercial radio and television aerials, antennas, and transmission towers shall conform to the applicable requirements of Cal-OSHA and/or the FCC before commencement of, and during operation. Evidence of conformance shall be provided to the zoning administrator before final inspection of the facility by the chief building official.							
If the zoning administrator finds that an approved aerial, antenna, or transmission tower is not in compliance with this title, that conditions have not been fulfilled, or that there is a compelling public safety and welfare necessity, the zoning administrator shall notify the owner/operator of the aerial/antenna/ transmission tower in writing of the concern, and state the actions necessary to cure. After 30 days from the date of notification, if compliance with this title is not achieved, the conditions of approval have not been fulfilled, or there is still a compelling public safety and welfare necessity, the zoning administrator shall refer the use to the planning commission for review. Such reviews shall occur at a noticed public hearing where the owner/operator of the aerial/antenna/ transmission tower may present relevant evidence. If, upon such review, the planning commission finds that any of the above have occurred, the planning commission may modify or revoke all approvals and/or permits.							
Copying and related duplicating services and printing/publishing services using only computers, copy machines, etc., not including lithographing, engraving, or such similar reproduction services	P	P	P	P	P		
Dairy products plants					C		
Dairy products manufacturing for retail sale on premises only	P			C	P		

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
Dance halls (where no liquor is served)	P	C		C			
Delicatessen stores	P	P	P	P			
Department stores	P	P		P			
Department stores tire, battery and accessory shops	P	P					
Diaper supply services					P		
Drive-in theaters					C		
Drugstores and prescription pharmacies	P	P	P	P			
Dry goods stores	P	P	P	P			
Electrical equipment repair and electricians' shops					C		
Feed and fuel stores					C		
Financial institutions, including banks, savings and loan offices, finance companies, credit unions and related services	P	P	P	P	P		
Firearm sales	C	C		C			
Firearm sales in which no more than 10 firearms are stored on-site at any one time and the majority of firearms are sold through catalogs, mail order, or at trade shows	C	C		C	C		
Florists	P	P	P	P			
Food lockers	P			C	P		
Food market including supermarkets, convenience markets and specialty stores	P	P	C	C			
Freight forwarding terminals					C		
Full-service, self-service and quick- service stations not less than 60 feet from residentially planned or zoned property, provided all operations except the sale of gasoline and oil shall be conducted within a building enclosed on at least three sides, and provided that the minimum site area shall be 20,000 square feet. Direct sales to the public shall be limited to petroleum products, automotive accessories, tobacco, soft drinks, candy and gum	C	C	C	C	C	C	C
with truck and trailer rental					C	C	
with a convenience market, excluding the sale of alcoholic beverages					C	C	
with a drive-through car wash		C			C	C	
Full service car wash		C			C	C	
Furniture stores	P	P		P	P	P	
Furniture upholstery shops					C	C	
Game arcades as defined by Section 18.08.207 of this title	C	C	C	C			
Garden centers, including plant nurseries	P	C			C	C	
Gift shops	P	P	P	P			
Glass replacement and repair shops					C	P	
Guards' living quarters					C		
Gunsmiths	P	P		P	P		

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
Gymnasiums and health clubs	P	C	C	C	P		
Gymnasiums and health clubs including massage services of four or more massage technicians at any one time. Massage establishments within gymnasiums and health clubs shall meet the requirements of Chapter 6.24.	C	C	C	C	C		
Gymnasiums and health clubs including massage services of three or fewer massage technicians at any one time. Massage establishments within gymnasiums and health clubs shall meet the requirements of Chapter 6.24.	P	C	C	C	P		
Hardware stores	P	P	P	P	P		
Heating and air conditioning shops					C		
Hobby shops	P	P	P	P			
Hospital equipment, sales and rental	P	P		C	P		
Hotels and motels		C		P		P	
Household repair shops					C		
Ice cream sales	P	P	P	P			
Ice vending stations		C	C	C	C	C	
Interior decorating shops	P	P	P	P			
Janitorial services and supplies	P			C	P		
Jewelry stores	P	P	P	P			
Kennels, and other boarding facilities for small animals not less than 300 feet from an R or O district					C		
Laboratories		P		P	P		
Laundries and dry cleaners where service is provided	P	P	P	P	P		
Laundries, self-service		P	P	P			
Laundry plants				C			
Leather goods and luggage stores	P	P	P	P			
Linen supply services					P		
Liquor stores	P	P	C	C			
Locksmiths	P	P	P	P			
Lumberyards, not including planing mills or sawmills not less than 300 feet from an R or O district					C		
Machinery sales					P		
Massage establishments where four or more massage technicians provide massage services at any one time. Massage establishments shall meet the requirements of Chapter 6.24.	C	C		C			
Massage establishments where three or fewer massage technicians provide massage services at any one time. Massage establishments shall meet the requirements of Chapter 6.24.	P	P		P			
Medical and orthopedic appliance stores	P	P		P			
Meeting halls	P	C		C	C	C	

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
Microbrewery	P***	P***		P***	P***		
*** Permitted use subject to the following conditions:							
1. The zoning administrator finds that adequate parking is available for said use.							
2. If the zoning administrator determines that the use will be or is creating odor problems, an odor abatement device determined to be appropriate by the zoning administrator shall be installed within the exhaust ventilation system to mitigate brewery odors.							
3. The applicant is in compliance with all applicable requirements of Chapter 9.04 of this code.							
4. If operation of the use results in conflicts pertaining to parking, noise, odors, traffic, or other factors, the zoning administrator may modify or add conditions to mitigate such impacts, or may revoke the zoning certificate for the use.							
Miniature golf	P	C					
Mortuaries				C	P		
Motorcycle sales, no service or repair	P			P			P
Motorcycle sales and service					C	C	C
Music stores	P	P	P	P			
Music and dance facilities which cannot meet the criteria for music and dance facilities as written in the use category below	P	C	C	C	C	C	
Music and dance facilities with no more than 20 students in the facility at any one time are permitted uses subject to the following conditions:	P	P	P	P	P	P	
1. The facility shall adhere to all occupancy, ADA, California Building Code, and exiting requirements;							
2. The zoning administrator finds that adequate parking is available for the said use.							
The standard city noise ordinance applies.							
Newsstands	P	P	P	P	P		
Office buildings		P	C	P			
Office supply and business machines stores	P	P	P	P			
Offices, including, but not limited to, business, professional and administrative offices	P	P	P	P			
Outdoor art and craft shows		TC	TC	TC			
Paint, glass and wallpaper shops	P	P		P	P		
Parcel delivery services including garage facilities for trucks, and repair shops facilities					C		
Parking facilities, including required off-street parking facilities located on a site separated from the uses which the facilities serve and fee parking in accordance with the standards and requirements of Chapter 18.88 of this title				C			
Pest control shops				C	P		
Pet and bird stores	P	P	P	P	P		
Photographic studios	P	P	P	P			
Photographic supply stores	P	P	P	P	P		
Picture framing shops	P	P	P	P			
Plant shops	P	P	P	P			
Plumbing, heating and ventilating equipment showrooms with storage of floor samples only	P	P		P	P		

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
Plumbing shops					P		
Pool halls	P	C		C			
Post offices	P	P	C	P			
Prefabricated structure sales					C		
Printing, including also lithographing and engraving and other reproduction services				C	P		
Private clubs and lodges				C	C		
Private museums				C	C		
Public utility and public service facilities including pumping stations, power transmission stations, power distribution stations, equipment buildings, service yards, drainageways and structures, water reservoirs, percolation basins, well fields, and storage tanks. These facilities must be found by the planning commission to be necessary for the public health, safety, or welfare		C	C	C	C	C	
"Radioactive materials uses" as defined in Section 18.08.445 of this title					C		
Radio and television broadcasting studios		P	P	C	P	P	
Record and recording and sound equipment stores	P	P	C	P			
Recreation and sport facilities, indoor, which cannot meet the recreation and sport facility criteria as written in the use category below	C	C	C	C	C	C	
Recreation and sport facilities, indoor, with more than 20 students in the facility at any one time, or recreation and sports facilities, indoor, including massage services of four or more massage technicians at any one time. Massage establishments within recreation and sports facilities shall meet the requirements of Chapter 6.24.	C	C	C	C	C	C	
Recreation and sport facilities, indoor, with no more than 20 students in the facility at any one time, and with no massage services or with massage services of three or fewer massage technicians at any one time. Massage establishments within recreation and sports facilities shall meet the requirements of Chapter 6.24.	P	P	P	P	P	P	
1. The facility shall adhere to all occupancy, ADA, California Building Code, and exiting requirements;							
2. The zoning administrator finds that adequate parking is available for the said use.							
The standard city noise ordinance applies.							
Recreation and sports facilities, outdoor, including racetracks, golf driving ranges, skateboard parks, riding stables, etc.					C		

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
Recycling collection facilities, small	C	C	C	C	C	C	
Refrigeration equipment sales					P		
Rental yards, including the rental of hand tools, garden tools, power tools, trucks and trailers and other similar equipment					C		
Residential uses (see subsection B of this section) see also "guards' living quarters," and Chapter 18.108 of this title				P	C	C	
Restaurants and soda fountains not including drive-ins or take-out food establishments	P	P	P	P	C	P	
Restaurants and soda fountains including drive-ins and take-out food establishments	P	C	C	C	C	C	
Saddleries	P	P		P	P		
Schools and colleges including trade, business, music and art schools, but not including general purpose or nursery schools which cannot meet the criteria for schools and colleges as written in the use category below	P	C	C	C	C	C	
Schools and colleges including trade, business, music and art schools, but not including general purpose or nursery schools, with no more than 20 students in the facility at any one time are permitted uses subject to the following conditions:	P	P	P	P	P	P	P
1. The facility shall adhere to all occupancy, ADA, California Building Code, and exiting requirements;							
2. The zoning administrator finds that adequate parking is available for the said use.							
The standard city noise ordinance applies.							
Scientific instrument shops	P	P		P	P		
Secondhand stores and pawnshops				C			
Self-service car wash				C			
Sheet metal shops				C			
Shoe repair shops	P	P	P	P			
Shoe stores	P	P	P	P			
Shooting galleries, indoor	P			C	P		
Shooting galleries, indoor, with firearm sales	C			C	C		
Sign painting shops	P			C	P		
Skating rinks, indoor	P	P			P	C	
Specialty stores selling those items normally sold in department stores	P	P		P			
Sporting goods stores, no firearm sales	P	P	P	P			
Sporting goods stores with firearm sales	C	C		C			
Sports arenas or stadiums					C	C	
Stamp and coin stores	P	P	P	P			
Stationery stores	P	P	P	P			
Stone and monument yards					P		
Storage buildings for household goods						P	

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
Storage yards for commercial goods, supplies and equipment including fuel storage, no less than 300 feet from any R or O district					C		
Swimming pool sales, supplies and/or service	P		C	C	P	C	
Tailor or dressmaking shops	P	P	P	P			
Taxicab stands		P	P	P	P	P	P
Taxidermists	P	P		P	P		
Television and radio sales and repair shops	P	P	P	P	P		
Theaters and auditoriums	P	P	C	P		C	
Tire sales and service, not including retreading and recapping or mounting of heavy truck tires		C		C	P		P
Tires, batteries and accessories	P	P					
Tobacco stores	P	P	P	P			
Tool and cutlery sharpening or grinding				C	P		
Toy stores	P	P	P	P			
Trailers and mobilehome parks in accordance with the regulations prescribed in Chapter 18.108 of this title					C	C	
Truck, trailer and/or RVs, sales and service					C	C	P
Truck scales					P	C	
Trucking terminals, not less than 150 feet from an R or O district					C		
Tutoring which cannot meet the criteria for tutoring as written in the use category below	C	C	C	C	C	C	
Tutoring with no more than 20 students at the facility at any one time are permitted uses subject to the following conditions:	P	P	P	P	P	P	
1. The facility shall adhere to all occupancy, ADA, California Building Code, and exiting requirements;							
2. The zoning administrator finds that adequate parking is available for the said use.							
The standard city noise ordinance applies.							
Variety stores	P	P	P	P			
Vending machine sales and service				C	P		
Veterinarians' offices and out-patient clinics, excluding any overnight boarding of animals, and including incidental care such as bathing and trimming, provided that all operations are conducted entirely within a completely enclosed building which complies with specifications for soundproof construction prescribed by the chief building offical			C				

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
Veterinarians' offices, out-patient clinics, and small animal hospitals, including short term overnight boarding of animals and incidental care such as bathing and trimming, provided that all operations are conducted entirely within a completely enclosed building which complies with specifications for sound-proof construction prescribed by the chief building official				C	P		
Veterinarians' offices and small animal hospitals including operations not conducted within an entirely enclosed building, not less than 300 feet from an R or O district					C		
Warehouses except for the storage of fuel or flammable liquids					C		
Watch and clock repair shops	P	P	P	P			
Waterbed shops including the sale of small incidentals, such as linens, wall hangings, and other similar items	P	P	P	P			
Wholesale establishments					C		
Wholesale establishments without stocks		P		P			

(Ord. 2000 § 1, 2009; Ord. 1995 § 2, 2009; Ord. 1950 § 2 (Exh. A), 2007; Ord. 1880, 2003; Ord. 1850 § 1, 2002; Ord. 1821 § 1, 2001; Ord. 1810 § 1, 2000; Ord. 1743, 1998; Ord. 1738 § 1, 1998; Ord. 1726 § 1, 1997; Ord. 1725 § 1, 1997; Ord. 1668 § 2, 1995; Ord. 1665 § 2, 1995; Ord. 1604 § 1, 1993; Ord. 1603 § 3, 1993; Ord. 1394 § 1, 1989; Ord. 1390 § 1, 1988; Ord. 1379 § 1, 1988; Ord. 1354 § 4, 1988; Ord. 1346 § 2, 1987; Ord. 1340 § 1, 1987; Ord. 1216 § 1, 1985; Ord. 1071 § 2, 1983; prior code § 2-7.08)

18.44.095 Prohibited uses.

The following uses shall not be permitted in the commercial districts:

Any use not specifically or conditionally permitted by this chapter, unless a determination is made under Chapter 18.128 of this title. (Ord. 1880, 2003)

18.44.100 Underground utilities.

Electric and communication service wires to a new structure shall be placed underground from the nearest utility pole. If the city engineer finds, upon application by the property owner, that compliance is not feasible or economically justifiable, he or she shall permit different service arrangements. The property owner shall comply with the requirements of this section without expense to the city and shall make the necessary arrangements with the public utility involved. (Ord. 2000 § 1, 2009; prior code § 2-7.09)

18.44.110 Off-street parking.

Off-street parking facilities shall be provided for each use in the C districts as prescribed in Chapter 18.88 of this title. (Prior code § 2-7.10)

18.44.120 Off-street loading.

Off-street loading facilities shall be provided for each use in the C districts prescribed in Chapter 18.92 of this title, except in the C-R district where the zoning administrator and/or planning commission shall establish regulations on a case by case basis in accordance with the purposes of Chapter 18.20 of this title. (Ord. 1591 § 2, 1993; prior code § 2-7.11)

18.44.130 Signs.

No sign, outdoor advertising structure, or display of any character shall be permitted in the C districts, except as prescribed in Chapter 18.96 of this title. (Prior code § 2-7.12)

18.44.140 Design review.

All permitted and conditional uses in the C districts shall be subject to design review as prescribed in Chapter 18.20 of this title. Applicants are advised to confer with the zoning administrator before preparing detailed plans. (Prior code § 2-7.13)

F. Accessory structures and uses located on the same site as a permitted use and the following accessory structures and uses located on the same site with a permitted use or with a conditional use which has been granted a use permit in accord with the provisions of Chapter 18.124 of this title:

1. Emergency standby electricity generator, fuel cell, and/or battery facilities provided that the facilities shall be tested from 8:00 a.m. to 5:00 p.m. Monday through Friday or from 10:00 a.m. to 12:00 noon on Saturday or Sunday only; the facilities shall not be tested for more than one hour during any day, and no testing shall be on "Spare The Air Days" in Alameda County.
2. Photovoltaic facilities.
3. Small electricity generator facilities that meet the following criteria:
    a. The fuel source for the generators shall be natural gas, bio diesel, or the byproduct of an approved cogeneration or combined cycle facility;
    b. The facilities shall use the best available control technology to reduce air pollution;
    c. The facilities shall not create any objectionable odors at any point outside of the property plane where the facilities are located;
    d. The facilities shall not exceed a noise level of 45 dBA at any point on any residentially zoned property outside of the property plane where the facilities are located; and
    e. On a site with fuel cell facilities, small electricity generator facilities shall not be permitted unless the aggregate wattage of the two facilities is less than one megawatt. If the aggregate wattage of the two facilities is one megawatt or greater, the small electricity generator facilities shall be subject to all requirements and processes prescribed in this title for medium or large electricity generator facilities, whichever is the most applicable, in the subject zoning district;
    f. The facilities shall be cogeneration or combined cycle facilities, if feasible.
4. Small fuel cell facilities that meet the following criteria:
    a. The facilities shall not create any objectionable odors at any point outside of the property plane where the facilities are located;
    b. The fuel cell facilities shall not exceed a noise level of 45 dBA at any point on any residentially zoned property outside of the property plane where the facilities are located; and
    c. On a site with electricity generator facilities, small fuel cell facilities shall not be permitted unless the aggregate wattage of the two facilities is less than one megawatt. If the aggregate wattage of the two facilities is one megawatt or greater, the small fuel cell facilities shall be subject to all requirements and processes prescribed in this title for medium or large fuel cell facilities, whichever is the most applicable, in the subject zoning district;

    Small fuel cell facilities are encouraged to be cogeneration or combined cycle facilities.

G. Commercial radio and television aerials, antennas, and transmission towers with design review approval specified under Chapter 18.20 of this title, having a minimum distance of 300 feet from the property lines of all of the following:

1. Existing or approved residences or agricultural zoning districts or in planned unit developments with a residential or agricultural zoning designation;
2. Undeveloped residential or agricultural zoning districts or undeveloped planned unit developments with a residential or agricultural zoning designation and without an approved development plan, unless designated as a public and institutional land use in the general plan;
3. Existing or approved public schools, private schools, and childcare centers, not including schools which only provide tutorial services;
4. Neighborhood parks, community parks, or regional parks, as designated in the general plan; and
5. Existing or approved senior care/ assisted living facilities, including nursing homes.

All commercial radio and television aerials, antennas, and transmission towers shall be located so as to minimize their visibility and, unless determined by the zoning administrator to be significantly hidden from view, designed to ensure that they will not appear as an aerial, antenna, and/or transmission tower. All such facilities determined by the zoning administrator to be visible from residential land uses, the I-580 and/or I-680 rights-of-way, or other sensitive land uses such as parks, schools, or major streets, shall incorporate appropriate stealth techniques to camouflage, disguise, and/or blend them into the surrounding environment, and shall be in scale and architecturally integrated with their surroundings in such a manner as to be visually unobtrusive. All applications for commercial radio and/or television aerials, antennas, and transmission towers shall include engineering analyses completed to the satisfaction of the zoning administrator. Said analyses shall be peer reviewed by an outside consultant.

If mounted on structures or on architectural details of a building, these facilities shall be treated to match the existing architectural features and colors found on the building's architecture through design, color, texture, or other measures deemed to be necessary by the zoning administrator.

Roof mounted aerials and antennas shall be located in an area of the roof where the visual impact is minimized. Roof mounted and ground mounted aerials, antennas, and transmission towers shall not be allowed in the direct sightline(s) or sensitive view corridors, or where they would adversely affect scenic vistas, unless the facilities incorporate the appropriate, creative techniques to camouflage, disguise, and/or blend them into the surrounding environment, as determined to be necessary by the zoning administrator.

All commercial radio and television aerials, antennas, and transmission towers shall conform to the applicable requirements of Cal-OSHA and/or the FCC before commencement of, and during operation. Evidence of conformance shall be provided to the zoning administrator before final inspection of the facility by the chief building official.

If the zoning administrator finds that an approved aerial, antenna, or transmission tower is not in compliance with this title, that conditions have not been fulfilled, or that there is a compelling public safety and welfare necessity, the zoning administrator shall notify the owner/operator of the aerial/antenna/transmission tower in writing of the concern, and state the actions necessary to cure. After 30 days from the date of notification, if compliance with this title is not achieved, the conditions of approval have not been fulfilled, or there is still a compelling public safety and welfare necessity, the zoning administrator shall refer the use to the planning commission for review. Such reviews shall occur at a noticed public hearing where the owner/operator of the aerial/antenna/ transmission tower may present relevant evidence. If, upon such review, the planning commission finds that any of the above have occurred, the planning commission may modify or revoke all approvals and/or permits.

H. Public or private recreation facilities with no more than 20 students on the site at any one time are permitted uses subject to the following conditions:

1. The facility shall adhere to all occupancy, ADA, California Building Code, and exiting requirements;
2. The zoning administrator finds that adequate parking is available for the said use.

The standard city noise ordinance applies. (Ord. 2000 § 1, 2009; Ord. 1950 § 2 (Exh. A), 2007; Ord. 1880, 2003; Ord. 1821 § 1, 2001; Ord. 1738 § 1, 1998; Ord. 1665 § 3, 1995; prior code § 2-7.20(1))

18.48.150 Permitted uses—I-G district.

The following uses shall be permitted in an I-G district:

A. All uses permitted in Section 18.48.140 of this chapter.

B. General industrial and related uses, including only:

Aircraft and aircraft accessories and parts manufacture.

Automobile, truck and trailer accessories and parts manufacture.

Automobile, truck and trailer assembly.

Bag cleaning.

Bakeries.

All commercial radio and television aerials, antennas, and transmission towers shall conform to the applicable requirements of Cal-OSHA and/or the FCC before commencement of, and during operation. Evidence of conformance shall be provided to the zoning administrator before final inspection of the facility by the chief building official.

If the zoning administrator finds that an approved aerial, antenna, or transmission tower is not in compliance with this title, that conditions have not been fulfilled, or that there is a compelling public safety and welfare necessity, the zoning administrator shall notify the owner/operator of the aerial/antenna/transmission tower in writing of the concern, and state the actions necessary to cure. After 30 days from the date of notification, if compliance with this title is not achieved, the conditions of approval have not been fulfilled, or there is still a compelling public safety and welfare necessity, the zoning administrator shall refer the use to the planning commission for review. Such reviews shall occur at a noticed public hearing where the owner/operator of the aerial/antenna/ transmission tower may present relevant evidence. If, upon such review, the planning commission finds that any of the above have occurred, the planning commission may modify or revoke all approvals and/or permits.

Contractors' equipment, rental and storage areas.

Dairy products plants.

Electrical repair shops.

Feed and fuel stores.

Freight forwarding terminals.

Frozen food distributors.

Heating and ventilating shops.

Ice storage houses.

Kennels, not less than 300 feet from an R or O district.

Laundry plants.

Lumberyards, not including planing mills or sawmills.

Machinery sales and rental.

Mattress repair shops.

Microbreweries.*

*Permitted use subject to the following conditions:

A. The zoning administrator finds that adequate parking is available for said use.

B. If the zoning administrator determines that the use will be or is creating odor problems, an odor abatement device determined to be appropriate by the zoning administrator shall be installed with the exhaust ventilation system to mitigate brewery odors.

C. The applicant is in compliance with all applicable requirements of Chapter 9.04 of this code.

D. If operation of the use results in conflicts pertaining to parking, noise, odors, traffic, or other factors, the zoning administrator may modify or add conditions to mitigate such impacts, or may revoke the zoning certificate for the use.

Packing and crating.

Parcel delivery service including repair shop facilities.

Prefabricated structure sales.

Public utility and public service facilities including pumping stations, power transmission stations, power distribution stations, equipment buildings, service yards, drainageways and structures, water reservoirs, percolation basins, well fields, and storage tanks. These facilities must be found by the planning commission to be necessary for the public health, safety, or welfare.

Storage yard for commercial and/or recreational vehicles.

Tire sales and service, including retreading and recapping.

Truck terminals.

Warehouses, except for the storage of fuel and flammable liquids.

Wholesale establishments. (Ord. 2000 § 1, 2009; Ord. 1880, 2003; Ord. 1821 § 1, 2001; Ord. 1665 § 4, 1995; prior code § 2-7.20(3))

18.48.170 Conditional uses—Generally.

The conditional uses provided in Sections 18.48.180 through 18.48.200 of this chapter shall be permitted upon the granting of a use permit in accord with the provisions of Chapter 18.124 of this title. (Prior code § 2-7.21)

18.48.180 Conditional uses—I-P district.

The following conditional uses shall be permitted in an I-P district:

Accessory structures and uses located on the same site as a conditional use and the following accessory structures and uses located on the same site as a permitted use or a conditional use that has been granted a use permit:

A. Medium electricity generator facilities that meet the applicable standards of Section 18.124.290 of this title.

B. Medium fuel cell facilities that meet the applicable standards of Section 18.124.290 of this title.

Churches and similar religious and meeting facilities in existing structures.

Firearm sales in which no more than 10 firearms are stored on site at any one time and the majority of firearms are sold through catalogs, mail order, or at trade shows.

Fortune telling, palmistry, augury, and related uses.

Garden centers.

Motion picture production.

Nurseries.

Public or private recreation facilities.

Public or private recreation uses which cannot meet the criteria for public or private recreation uses as written in Section 18.48.140.

Public utility and public service facilities including pumping stations, power transmission stations, power distribution stations, equipment buildings, service yards, drainageways and structures, water reservoirs, percolation basins, well fields, and storage tanks. These facilities must be found by the planning commission to be necessary for the public health, safety, or welfare.

"Radioactive materials uses" as defined in Section 18.08.445 of this title.

Recycling collection facilities, large.

Recycling collection facilities, small.

Restaurants and soda fountains, not including drive-in establishments.

Service stations, not including trailer rental, providing all operations except the sale of gasoline and oil and the washing of cars shall be within a building enclosed on at least three sides.

Warehousing (not including the storage of fuel or flammable liquids).

Wood sales and storage yards for unmilled lumber. (Ord. 1950 § 2 (Exh. A), 2007; Ord. 1880, 2003; Ord. 1743, 1998; Ord. 1738 § 1, 1998; Ord. 1354 § 5, 1988; Ord. 1276 § 1, 1986; Ord. 1088 § 1, 1983; prior code § 2-7.21(1))

18.48.190 Conditional uses—I-G district.

The following conditional uses shall be permitted in an I-G district:

A. Any use listed as a conditional use in Section 18.48.180 of this chapter.

B. The following uses, provided that the city planning commission shall make a specific finding that the use will conform with each of the required conditions prescribed for uses in the I-G district in Sections 18.48.050 through 18.48.130 of this chapter, in addition to the findings prescribed in Section 18.48.070 of this chapter:

Airports and heliports.

Asphalt and asphalt products manufacture.

Cement, lime, gypsum and plaster of Paris manufacture.

Chemical products manufacture including acetylene, aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, cleaning and polishing preparations, creosote, exterminating agents, hydrogen and oxygen, industrial alcohol, nitrating of cotton or other materials, nitrates of an explosive nature, potash, pyroxyline, rayon yarn, and carbolic, hydrochloric, picric and sulfuric acids.

Churches and similar religious and meeting facilities in existing structures.

Drive-in theaters.

Drop forges.

Explosives manufacture and storage.

Fertilizer manufacture.

Film manufacture.

Gas and oil wells.

Incineration of garbage and refuse.

Junkyards.

Large electricity generator facilities, in accord with the provisions of Chapter 18.124 of this title.

Large fuel cell facilities, in accord with the provisions of Chapter 18.124 of this title.

Linoleum and oil cloth manufacture.

Manure, peat and topsoil processing and storage.

Motor vehicle wrecking yards.

Paint manufacture including enamel, lacquer, shellac, turpentine and varnish.

Paper mills.

Petroleum and petroleum products storage.

Radioactive material uses as defined in Section 18.08.445 of this title.

Recycling collection facilities, large.

Recycling processing facilities, large.

Recycling processing facilities, small.

Rifle and pistol ranges.

Rifle and pistol ranges, with firearm sales.

Rolling mills.

Rubber manufacture or processing including natural or synthetic rubber and gutta-percha.

Sanitary fill operations.

Soap manufacture including fat rendering.

Steam plants.

Storage of used building materials.

Storage yard for commercial (exclusive of contractors' or construction) and/or recreational vehicles.

Tanneries and curing and storage of rawhides.

Trade schools which cannot meet the criteria for trade schools as written in Section 18.48.150.

Wind energy facilities that meet the following criteria:

1. The facilities shall not exceed a noise level of 45 dBA at any point on any residentially zoned property outside of the property plane where the facilities are located; and
2. The design of the facilities shall be streamlined (without ladders and extra appurtenances) to discourage birds from roosting on the facilities.
3. Facilities on hillsides or ridges shall not be visible from a public right-of-way.

C. Accessory structures and uses located on the same site as a conditional use. (Ord. 1950 § 2 (Exh. A), 2007; Ord. 1880, 2003; Ord. 1743, 1998; Ord. 1738 § 1, 1998; Ord. 1354 § 6, 1988; Ord. 1088 § 1, 1983; prior code § 2-7.21(2))

18.48.200 Conditional uses—L-I district.

The following conditional uses shall be permitted in an L-I district:

Accessory structures and uses located on the same site as a conditional use and the following accessory structures and uses located on the same site as a permitted use or a conditional use that has been granted a use permit:

A. Medium electricity generator facilities that meet the applicable standards of Section 18.124.290 of this title.

B. Medium fuel cell facilities that meet the applicable standards of Section 18.124.290 of this title.

Auction establishments including outdoor display.

Bottling works.

Carpet and rug cleaning and dyeing.

Churches and similar religious and meeting facilities in existing structures.

Firearm sales in which no more than 10 firearms are stored on site at any one time and the majority of firearms are sold through catalogs, mail order, or at trade shows.

Garden centers.

Recycling collection facilities, large.

Recycling collection facilities, small.

Sheet metal shops. (Ord. 1880, 2003; Ord. 1738 § 1, 1998; Ord. 1354 § 7, 1988; Ord. 1088 § 1, 1983; prior code § 2-7.21(3))

18.48.204 Prohibited uses.

The following uses shall not be permitted in the industrial districts:

Any use not specifically or conditionally permitted by this chapter, unless a determination is made under Chapter 18.128 of this title. (Ord. 1880, 2003)

18.48.210 Underground utilities.

In the I-P, I-G and L-I districts, electric and communication service wires to a new structure shall be placed underground from the nearest utility pole. If the city engineer finds, upon application by the property owner, that compliance is not feasible or economically justifiable, he or she shall permit different service arrangements. The property owner shall comply with the requirements of this section without expense to the city and shall make the necessary arrangements with the public utility involved. (Ord. 2000 § 1, 2009; prior code § 2-7.22)

J. Public schools, including nursery schools, elementary schools, junior high schools, high schools, and colleges.

K. Private schools and private nursery schools if located a minimum of 300 feet away from any personal wireless service facility approved after the adoption of the city's personal wireless service facility ordinance, Chapter 18.110 of this title, not including those personal wireless service facilities exempted in Section 18.110.010 of this title, and tutorial schools, and colleges.

L. Public utility and public service facilities including pumping stations, power transmission stations, power distribution stations, equipment buildings, service yards, drainageways and structures, water reservoirs, percolation basins, well fields, and storage tanks. These facilities must be found by the planning commission to be necessary for the public health, safety, or welfare.

M. Required off-street parking facilities located on a site separated from the use which the facilities serve, as prescribed by Chapter 18.88 of this title relating to location of off-street parking facilities.

N. Any other public or quasi-public use which the planning commission determines is similar in nature to those listed above and which will not be detrimental to the proper development and maintenance of surrounding land uses.

O. Convalescent hospitals, convalescent homes, rest homes, and senior care/assisted living facilities if located a minimum of 300 feet away from any personal wireless service facility approved after the adoption of the city's personal wireless service facility ordinance, Chapter 18.110 of this title, not including those personal wireless service facilities exempted in Section 18.110.010 of this title. (Ord. 1880, 2003; Ord. 1743, 1998; prior code § 2-7.44)

18.56.050 Temporary conditional use.

The following conditional use shall be permitted upon the granting of a temporary conditional use permit in accord with the provisions of Section 18.116.040 of this title:

Outdoor sales in city parks to benefit only charitable or nonprofit organizations. (Prior code § 2-7.45)

18.56.060 Prohibited uses.

The following uses shall not be permitted in the public and institutional district:

A. Any use not specifically or conditionally permitted by this chapter, unless a determination is made under Chapter 18.128 of this title.

B. Firearm sales. (Ord. 1880, 2003; Ord. 1738 § 1, 1998)

18.56.070 Underground utilities.

Electric and communication service wires to a new structure shall be placed underground from the nearest utility pole. If the city engineer finds, upon application by the owner, that compliance is not feasible or economically justifiable, he or she shall permit different service arrangements. The property owner, other than the city, shall comply with the requirements of this section without expense to the city and shall make the necessary arrangements with the public utility involved. (Ord. 2000 § 1, 2009; Ord. 1738 § 1, 1998; prior code § 2-7.46)

18.56.080 Off-street parking.

Off-street parking facilities shall be provided for each use in the P district as prescribed in Chapter 18.88 of this title. (Ord. 1738 § 1, 1998; prior code § 2-7.47)

18.56.090 Off-street loading.

Off-street loading facilities shall be provided for each use in the P district as prescribed in Chapter 18.92 of this title. (Ord. 1738 § 1, 1998; prior code § 2-7.48)

18.56.100 Signs.

No sign, outdoor advertising structure, or display of any character shall be permitted in the P district except as prescribed in Chapter 18.96 of this title. (Ord. 1738 § 1, 1998; prior code § 2-7.49)

18.56.110 Design review.

All uses in the P district shall be subject to design review as prescribed in Chapter 18.20 of this title. Applicants are advised to confer with the zoning administrator before preparing detailed plans. (Ord. 1738 § 1, 1998; prior code § 2-7.50)

18.68.040 Conditional uses.

Unless specific conditional uses are specified in the PUD plan, only the expansion, enlargement or alteration by area or usage of an interim use permitted by Section 18.64.080 of this chapter shall require a conditional use permit granted pursuant to Chapter 18.124 of this title. (Prior code § 2-8.28)

18.68.050 Development.

Except as provided in Section 18.68.090, no property subject to this chapter shall be developed in any way nor shall any grading permit be issued pursuant to the provisions of this code until all provisions of this chapter have been completed. As used in this section, "developed" means the submittal of any plans required by this code prior to the commencement of construction of any improvements. (Prior code § 2-8.29)

18.68.060 Property development standard.

A. In order to allow the greatest amount of flexibility in designing a project compatible with the physical features of the property, the uses intended to be developed thereon, and the objectives of this chapter, no minimum property development standards shall apply to the PUD district. The planning commission and city council shall determine appropriate amounts of landscaping, natural open space, parking, signing, distances between buildings, front yards and other development standards as are appropriate for the specific uses requested at the time of consideration of the PUD development plan required by Section 18.68.110. Said standards shall be included as conditions to any approved PUD development plan.

B. Landscaping shall include, but not be limited to, intensely planted and maintained areas. "Natural open space" means land lacking any physical, aboveground improvements, except for utility wires and poles, agricultural type fences or similar improvements, and unenhanced by plants, trees and shrubs, except those which are naturally existing and for agricultural purposes. (Prior code § 2-8.30)

18.68.070 Maintenance.

A. No final subdivision map or parcel map shall be recorded until documents pertaining to the maintenance of common natural open space areas, common landscaped areas, and common recreational facilities located within the plan have been approved by the city attorney. For nonresidential developments, said maintenance shall pertain to all landscaped areas and recreational facilities not enclosed within a building. For residential developments, said maintenance shall apply to the privately owned natural open space, landscaped areas, and recreational facilities owned by or used in common by the residents.

B. The city shall be identified as a third party beneficiary to conditions, covenants and restrictions placed upon a development, unless otherwise directed by the city council or the city attorney. (Prior code § 2-8.31)

18.68.080 Interpretation.

A. Due to the flexibility and imagination desired in PUD developments, not every issue regarding future development and use of the property may be established as part of the initial approval of a development. Thus, the community development director shall be charged with responsibility to determine if a change to the approved plan and/or conditions thereto is substantial. If, after review of the plan and conditions, the director determines that the request is a substantial revision or change, the request shall be presented to the planning commission and city council in accordance with the applicable provisions of Chapter 18.04 of this title. If the change is not substantial, the director, after consulting with the city attorney and city engineer, may approve the change, subject to reasonable conditions, and advise the planning commission and city council of said approval, in writing, within 10 days of the approval.

B. If the planning commission, city council, applicant or any interested citizen disagrees with the community development director's determination or conditions of approval, a written appeal shall be filed with the secretary to the planning commission within 20 calendar days of said action and a public hearing shall be held. The requisite notices of the public hearing shall be given pursuant to the provisions of Chapter 18.04 of this title.

C. If the revision or change involves the construction of an improvement or betterment for which no specific development standard is established pursuant to this chapter, the community development director, planning commission and/or city council shall apply the provisions of this code which most closely represent the type of development which has been approved. (Ord. 2000 § 1, 2009; prior code § 2-8.32)

18.68.090 Interim uses.

Any existing use of property zoned PUD (including property with an approved development plan) shall be subject to the provisions of Chapter 18.120 of this title pertaining to nonconforming uses. No expansion of a nonconforming land use, expansion of a nonconforming building, or addition of any new structures associated in any manner with an existing land use or building, with the exception of emergency standby electricity generators, fuel cells, or battery facilities, shall be allowed until a conditional use permit has been granted in accordance with Chapter 18.124 of this title. Emergency standby electricity generators, fuel cell, or battery facilities shall comply with the regulations of the most applicable R-1 zoning district, as determined by the community development director. (Ord. 2000 § 1, 2009; Ord. 1880, 2003; prior code § 2-8.33)

18.68.100 Grading.

Any land located within a PUD district which does not have an approved development plan shall not be graded or have fill placed upon it without first obtaining a conditional use permit pursuant to Chapter 18.124 of this title. (Prior code § 2-8.34)

18.68.110 Development plan.

A. Purpose. The development plan is intended to provide to the city a comprehensive plan of the proposed development to ensure that the intent and purposes of the planned unit development district are effectuated. The development plan may proceed as a single program or in phases, but in either situation, it is part of the entire PUD zoning process.

B. Considerations. In recommending approval of, or in approving a PUD development plan, the planning commission and city council should consider the following:

1. Whether the plan is in the best interests of the public health, safety and general welfare;
2. Whether the plan is consistent with the city's general plan and any applicable specific plan;
3. Whether the plan is compatible with previously developed properties in the vicinity and the natural, topographic features of the site;
4. Whether any grading to be performed within the project boundaries takes into account the environmental characteristics of the property and is designed in keeping with the best engineering practices to avoid erosion, slides or flooding to have as minimal an effect upon the environment as possible;
5. Whether streets, buildings, and other manmade structures have been designed and located in such a manner to complement the natural terrain and landscape;
6. Whether adequate public safety measures have been incorporated into the design of the plan;
7. Whether the plan conforms to the purpose of the planned unit development district.

C. Conditions. In the recommendation of approval and in the approval of a PUD development plan, conditions may be imposed which are deemed necessary to protect the public health, safety and general welfare.

D. Required Data. Any development plan shall be accompanied by the following data prepared by a design team consisting of a registered civil engineer and either a licensed architect, professional planner, or licensed building designer:

1. A site plan showing general locations of all streets, on street and off-street parking, buildings and other manmade structures and where applicable any bicycle paths, riding trails, hiking trails; typical elevations of sufficient detail to show building heights, building materials, colors, textures, and general design; and a table listing land coverages by percentage and acreage for the following: landscaped areas and natural open

space; coverage by buildings, parking (covered, open, off-street), streets, sidewalk; and where applicable, paths and recreational facilities;

2. A topographical map showing existing contours and proposed lot lines, which may be integrated with the site plan described in subsection (D)(1) of this section; the lot lines may be omitted if building locations on the site plan make proposed lot lines obvious. The topographical map shall be at a scale no smaller than one inch equals 100 feet showing contour lines existing prior to grading at an interval of not more than 10 feet. The community development director, or his or her designated representative, may allow a reduction in the scale of the map or allow an increase in the contour interval when in his or her opinion the size of the parcel or its terrain requires such changes to make the map more meaningful. The director may omit the requirement for a topographical map entirely for a parcel located on land having an average slope of less than 10 percent;
3. A grading plan showing increments of the depths of all cuts and fills in various colors or any similar display which shows the cuts, fills and depths thereof and readily distinguishes between differing fills and depths; and a slope classification map showing, in contrasting colors, all land which has less than 10 percent slope, that land which has a slope between 10 percent and 20 percent and all land which has a slope greater than 20 percent. The community development director, or his or her designated representative, may waive the slope classification map for properties which do not have significant land areas in excess of 10 percent slope;
4. The community development director, or his or her designated representative, shall require, where appropriate, development profiles which show the relationship of the proposed project to any dominant geological or topographical features which may be on or in the vicinity of the proposed project;
5. On the site plan or on a separate plat show any tree(s), including size and species as provided in Chapter 17.16 of this code and whether or not such tree(s) is to be removed or destroyed;
6. Sufficient dimensions to show right-of-way widths, pavement widths, street grades, whether streets are to be public or private, and all proposed frontage improvements on new and existing streets;
7. The community development director, after consulting with the city engineer, may require a current preliminary soils and geological report prepared by a registered civil engineer and/or a registered geologist when development is proposed in areas in excess of 10 percent average slope, there is known or suspected ground instability, high water table, or significant erosion. A geologic report shall always be prepared as required by Chapter 17.12 of this code;
8. A detailed landscaping plan showing the natural open space, if any, which will remain upon completion of development, all existing trees and the precise boundaries of additional landscaping; the landscape plan shall include container size of all trees and shrubs, species of all plant material, evidence of an irrigation system (indicating whether manual or automatic), street furniture, and fencing materials, and where applicable, dimensions and locations;
9. Residential developments also shall include the following data:
    a. A calculation of the population density of the development,
    b. The location of proposed dwelling units and types,
    c. A calculation of the number of bedrooms to be constructed;
10. A specification of the permitted uses desired in the development plan. The community development director, the planning commission, or city council may require greater identification of specific uses;
11. Notwithstanding the requirements of this subsection, an applicant for a PUD development plan for the development of two or more acres, which development will occur in stages, may submit general information relating to subsections (D)(1) through (D)(9) of this section for review for the entire project. Unless otherwise authorized by the city council, each stage or phase of the project must be adjacent to any previously approved portion of the development plan and shall be reviewed by and approved by the planning commission and city council, in accordance with the procedure set forth herein, together with the exact, complete and detailed information required by subsections (D)(1) through (D)(9) of this section. No tentative subdi-

vision map, building permit or other entitlement shall be approved or issued until such review and approval has been obtained.

E. Grading Control.

1. Size and Treatment. In order to keep all graded areas and cuts and fills to a minimum, to eliminate unsightly grading and to preserve the natural appearance and beauty of the property as far as possible as well as to serve the other specified purposes of this chapter, specific requirements may be placed on the size of areas to be graded or to be used for building, and on the size height and angles of cut slopes and fill slopes and the shape thereof. In appropriate cases, retaining walls may be required.

2. Restrictions. All areas indicated as natural open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise except as permitted by this subsection. Where applicable, drainage improvements, utility lines, riding trails, hiking trails, picnic areas, stables and similar public improvements and amenities may be placed in natural open space areas at the time of approval of a PUD development plan. Where natural open space is disturbed for public improvements, best engineering efforts shall be undertaken to make said improvements as unobtrusive as practicable and trenched areas (and similar ground disturbances) shall be treated so as to encourage rapid regeneration of the natural coverage.

3. Landscaping. The PUD development plan shall include the planting of newly created banks or slopes for erosion control or to minimize their visual effect. (Ord. 2000 § 1, 2009; prior code § 2-8.35)

18.68.120 HPD process.

If a development is proposed pursuant to this chapter, which also could develop under the provisions of the hillside planned development district (Chapter 18.76 of this title), the developer shall submit with his or her application for PUD zoning and PUD development plan an explanation why the project is not requested for development pursuant to the hillside planned development district. (Prior code § 2-8.36)

18.68.130 Procedure.

A. The placement of property into the PUD zoning district may be initiated by the city council, planning commission, property owner, an authorized representative or an option holder pursuant to the provisions of this chapter.

B. The city council, planning commission, applicant or general citizen may appeal any decision approving or disapproving a request for PUD zoning, development plan approval, or modification to a development plan pursuant to the provisions of this chapter.

C. A PUD district zoning request and development plan may be processed concurrently or separately. If they proceed concurrently, only a single ordinance shall be required for approval. If they proceed separately, or if the PUD development plan proceeds in phases as provided by this chapter, separate ordinances shall be required for each process and phase of the project. The ordinance(s) required by this subsection shall be processed in the same manner as any zoning ordinance.

D. No subdivision map shall be processed concurrently with a PUD zoning request or PUD development plan.

E. An applicant shall file a separate application for each noncontiguous parcel upon which consideration of PUD zoning and/or a development plan is desired. For the purposes of this subsection, parcels shall be deemed to be noncontiguous if they are separated by roads, streets, utility easements or railroad rights-of-way, which, in the opinion of the community development director, are of such a width as to:

1. Destroy the unity of the proposed project or the ability of the parcel to be developed as a cohesive unit; or

2. Otherwise create the impression that two separate parcels or projects are being developed. (Ord. 2000 § 1, 2009; prior code § 2-8.37)

18.74.030 Adoption of guidelines.

The city council, following recommendations by the planning commission, shall adopt downtown Pleasanton design guidelines for the district. Such guidelines may be amended from time to time following the same procedure. The zoning administrator, planning commission and the city council shall adhere to the adopted guidelines in reviewing all applications for permits, licenses, certificates or other approval or entitlement of use relating to improvements or demolition proposed within the district, and no such applications shall be approved unless consistent with the adopted guidelines. (Ord. 1656 § 1, 1995; Ord. 1591 § 2, 1993; Ord. 1225 § 1, 1985; prior code § 2-2.3403)

18.74.040 Improvements subject to design review.

A. The zoning administrator shall review the design of each improvement for which a building permit, license, certificate or other approval is required pursuant to this code. If a proposed improvement within the district would require planning commission or city council approval, then such body shall review the design. The zoning administrator may adopt standards for determining which applications comply on their face with all applicable regulations for improvements under this chapter and which will, if approved, have an insignificant effect both on the district as a whole and on the particular built context of the proposed improvement. The zoning administrator may also determine that applications for certain improvements do not need all the information required by Section 18.74.050 of this chapter.

B. The term "improvement" as used in this chapter shall be literally interpreted and shall include the construction, alteration and repair of all signs and all property and appurtenances thereto. The term "improvement" shall not include demolition. No improvements subject to design review shall hereinafter be constructed, located, required, altered or thereafter maintained except in accordance with the architectural plan approved as provided in this chapter.

C. The zoning administrator or planning commission shall consider the architectural plan within 30 days following the applications being deemed complete, unless the applicant agrees to a later date. After consideration of the architectural plan, the zoning administrator or planning commission shall issue its determination setting forth its decision to approve, disapprove or conditionally approve the architectural plan. The applicant or any aggrieved person may appeal any decision of the zoning administrator to the planning commission and of the planning commission to the city council in the manner provided in Section 18.20.060 this code. (Ord. 1656 § 1, 1995; Ord. 1586 § 4, 1993; Ord. 1520 § 2, 1991; Ord. 1225 § 1, 1985; prior code § 2-2.3404)

18.74.050 Application for design review.

Any person proposing to construct or locate any improvement subject to design review shall file, prior to filing for the first required permit, an application for design review with the zoning administrator. Such application shall be in the form and contain the materials required by the zoning administrator under Chapter 18.20 of this title.

A. Architectural drawings, including:
    1. Plans to scale.
    2. Four elevations to include all sides of development.
    3. Elevations to scale and renderings which include adjacent structures in the existing built context.
    4. (Optional) Perspectives. Model or other suitable graphic materials.

B. Renderings and complete building elevations indicating the wording, style, location, size, shape and type of illumination of each proposed permanent sign together with a palette of proposed colors, materials and textures.

C. Design plan and guidelines comprising the conceptual scheme proposed to be adopted for all temporary signage relating to site uses.

D. Preliminary landscaping plan.

E. Site photographs.

F. Color photographs of the existing built context including the site.

G. Color, materials and texture palette.

H. Other information which the zoning administrator determines to be necessary or convenient or which the zoning administrator or planning commission may by general policy require all applicants in the district to furnish. (Ord 1656 § 1, 1995; Ord. 1225 § 1, 1985; prior code § 2-2.3405)

18.74.060 Architectural plan for sign permit only.

Where the application is solely for a sign permit, items constituting the proposed architectural plan shall be those items required by Section 18.74.050 of this chapter for all elevations from which the proposed signs are visible and such additional items as are established by the zoning administrator as necessary or convenient to the review and decision. (Ord. 1656 § 1, 1995; Ord. 1225 § 1, 1985; prior code § 2-2.3406)

18.74.070 Final architectural plan approval.

If the architectural plan is approved and the applicant agrees to the conditions of approval, the applicant shall file the following information with the planning division prior to receipt of a building permit, license certificate or other approval:

A. Final working drawings;

B. Final landscape plan;

C. Color chips.

Final architectural plan approval is deemed approval of the certificate of appropriateness required by Section 18.74.170 of this chapter. The zoning administrator or his or her designee shall certify that the final architectural plan submitted under this section accords with the architectural plan as approved by the zoning administrator or planning commission. (Ord. 2000 § 1, 2009; Ord. 1656 § 1, 1995; Ord. 1225 § 1, 1985; prior code § 2-2.3407)

18.74.080 Evaluation and criteria.

The zoning administrator shall examine the material submitted with the application by considering the following aspects for conformance with the purpose of this chapter:

A. General site utilization considerations.

B. General architectural considerations:

1. Height, bulk and area of buildings.
2. Colors and types of building and installations.
3. Physical and architectural relationship between the proposed structures and the existing built context.
4. Site layout, orientation and location of buildings and relationship with open areas and topography.
5. Height, materials, color and variations in boundary walls, fences or screen planting.
6. Location and type of landscaping including but not limited to off-street parking areas.
7. Appropriateness of sign design and exterior lighting.

C. General landscape considerations.

D. Graphics.

The zoning administrator shall be guided in his or her review of improvements within the district by the adopted downtown Pleasanton design guidelines. (Ord. 1656 § 1, 1995; Ord. 1589 § 5, 1993; Ord. 1225 § 1, 1985; prior code § 2-2.3408)

18.74.090 All signs require a permit—Exemptions.

A. No sign shall be erected, altered or moved without a sign permit.

B. The following signs shall be exempt from these regulations:

3. Appropriate access, off-street parking, and loading berths are provided to each lot in the subdivision through easements or other devices, said appropriateness to be determined by the city;

4. Provision has been made to ensure maintenance of the access ways and other "public" areas in a manner acceptable to the city; and

5. All buildings either proposed to be built or existing, shall meet the applicable provisions of the building and fire codes as determined by the city.

Any other conditions may be placed on such commercial or industrial subdivisions as may be necessary to protect the public health, safety and welfare. (Prior code § 2-5.35(b))

18.84.030 Site area and dimensions—Measurement.

A. Required front, side and rear yards shall be measured as the minimum horizontal distance from the property line of the site or street right-of-way line to a line parallel thereto on the site; provided that where a specific street plan has been adopted by the city council, site area and required yards shall be measured from the plan line, and no provision of this chapter shall be construed to permit a structure or use to extend beyond such line; and provided further, that where a site abuts on a street having only a portion of its required width dedicated or reserved for street purposes, site area and required yards shall be measured from a line drawn on the boundary of the additional width required for street purposes abutting the site.

B. No site shall have less than 35 feet of frontage.

C. On an irregular site, required yards shall be measured in the manner prescribed by the zoning administrator.

D. On a lot having a width that exceeds its depth and which is served by an access corridor, the longer dimension may be considered the depth for purposes of measuring front, side and rear yards.

E. If, after dividing the area of a site in an RM or C-C district by the site area required per dwelling unit, a remainder equal to or greater than 90 percent of the area required for an additional dwelling unit is obtained, one additional dwelling unit may be located on the site, provided that all other applicable yard, open space, bulk, and parking regulations are met. (Prior code § 2-5.36(1))

18.84.040 Hillside sites in R-1 districts.

A. In the R-1-6,500, R-1-7,500, R-1-8,500 and R-1-10,000 districts, for each one-foot difference in elevation greater than 10 feet between points A and B as described in this chapter, the minimum required site area shall be increased by 10 percent except that a site in excess of 13,000 square feet shall not be required in the R-1-6,500 district, a site in excess of 15,000 square feet shall not be required in the R-1-7,500 district, a site in excess of seventeen thousand square feet shall not be required in the R-1-8,500 district, and a site in excess of 20,000 square feet shall not be required in the R-1-10,000 district.

B. In the R-1-20,000 and R-1-40,000 districts, for each one-foot difference in elevation greater than 20 feet between points A and B, as described in this chapter, the minimum required site area shall be increased by 10 percent.

C. On any lot point A is a point at which either projected side lot line intersects the edge of the street pavement as shown on a preliminary or tentative subdivision map or on plans approved by the city engineer or the existing pavement or traveled way. Point B is a point on the lot on an arc 100 feet distant from point A with the greatest difference in natural grade.

D. On a site having a difference in elevation of more than 10 feet between points A and B as described in this chapter, the natural grade shall not be disturbed or natural vegetation removed on more than 5,000 square feet if the site is in the R-1-10,000 district or more than 7,000 square feet if the site is in the R-1-20,000 or R-1-40,000 districts, provided that vegetation other than trees more than six inches in diameter may be removed from additional area if replaced by planning of equal coverage and ground-holding ability, and provided that vegetation may be removed from additional area in accord with a plan approved by the board of design review to thin out excessively heavy growth in order to foster improved growth conditions, to remove diseased plant material, or to eliminate a hazardous condition.

E. All properties placed in a hillside planned development (H-P-D) district shall be developed pursuant to the provisions of Chapter 18.76 of this title. (Ord. 2000 § 1, 2009; prior code § 2-5.36(2))

18.84.050 Width of corner lots.

Corner lots shall have extra width in addition to the width prescribed in the zoning schedule at least equal to the width of the minimum interior side yard prescribed for a main structure in the district and in no case shall the lot be less than 80 feet. (Prior code § 2-5.36(3))

18.84.060 Depth adjoining freeway or railroad in R districts.

In an R district, no site rearing on a freeway or railroad right-of-way shall have a depth of less than 130 feet. (Prior code § 2-5.36(4))

18.84.070 Nonconforming sites.

A site having an area, frontage, width or depth less than the minimum prescribed for the district in which the site is located, which is shown on a duly approved and valid tentative subdivision map or a recorded subdivision map, or for which a deed or valid contract of sale was of record prior to the effective date of the ordinance codified in this chapter, and which had a legal area, frontage, width and depth at the time that the subdivision map, deed or contract of sale was recorded, may be used for a permitted use or a conditional use in the district in which it is located but shall be subject to all other regulations for the district. (Prior code § 2-5.36(5))

18.84.080 Front yards—Requirements and exceptions.

In addition to the regulations prescribed in the zoning schedule of Section 18.84.010 of this chapter, the following regulations shall apply:

A. The minimum front yard for a garage, carport or off-street parking space required to serve a dwelling in the R-1-6,500, R-1-7,500, R-1-8,500, R-1-10,000, and RM districts shall be 23 feet in order to accommodate a car outside the garage, carport or parking space without encroaching upon the sidewalk, provided that where a garage or carport entered parallel to the street from which it has access, the front yard for the garage or carport may be 15 feet.

   In the R-1-6,500, R-1-7,500, R-1-8,500 and R-1-10,000 zoning districts, the front yard setback shall be a minimum of 20 feet for those properties where it can be shown through city records to the satisfaction of the community development director that the home was initially constructed with a minimum of 20-foot front yard setback.

B. Where sites comprising 40 percent of the frontage in an R district on a block are improved with buildings, the minimum front yard shall be the average of the minimum front yard depths for structures other than garages or carports on each developed site in the district on the block. In computing the average, a depth 10 feet greater than the minimum required front yard shall be used for any site having a greater yard depth.

C. No solid fence, brick and screen block walls, chainlink fence, hedge, or other screen planting in a required front yard in all zoning districts other than the R-1-20,000, R-1-40,000, and A districts shall exceed a height of 30 inches. Open fencing such as wrought iron, split rail, picket style, or other similar types of open fencing may be located in a required front yard, provided that the open fence maintains a maximum height of 42 inches. In conjunction with the open fence, a solid base of brick or split face block up to a height of 18 inches may be constructed so long as the total fence height does not exceed 42 inches, and decorative columns, caps, or pilasters up to a height of 48 inches, generally separated by a distance of six feet may be constructed. “Open picket style fencing” is defined as fencing which consists of narrow vertical boards, generally three inches to four inches in width, and with a minimum of 33 percent of the fence area being open.

   Higher decorative structures or planting screens incorporated into an identifiable landscaping scheme may be located in a required front yard, provided that:

   1. No such structure or screen shall exceed six feet in height except decorative arched gateways, which may be a maximum of eight feet in height;

2. The total linear dimensions of such structures and/or screens shall not exceed 20 percent of the lot frontage; and

3. No structure on the property provided for herein shall occupy any easement for public utility purposes.

In addition, no structure or planting of any type shall pose a traffic sight obstruction as regulated in Section 18.84.110 of this chapter.

D. No solid fence, chainlink fence, hedge, or other screen planting in a required front yard in the R-1-20,000, R-1-40,000, or A district shall exceed a height of 30 inches, except that wrought iron, split rail, or other similar types of open fencing may be permitted by the zoning administrator. Such fencing shall be permitted if it meets the following criteria:

1. The fence shall not exceed a height of six feet.

2. Where such fencing crosses a driveway, it shall be set back a minimum of 20 feet from the face of curb.

3. The fence shall be attractive and properly relate to the architecture of the residence and to its surrounding setting, as determined by the zoning administrator.

4. In conjunction with the open fence, a solid base of brick or split face block up to a height of 24 inches may be constructed, and decorative columns, caps, or pilasters up to a height of 84 inches, generally separated by eight feet, may be constructed.

Higher decorative structures or planting screens incorporated into an identifiable landscaping scheme may be located in a required front yard, provided that:

1. No such structure or screen shall exceed six feet in height except decorative arched gateways, which may be a maximum of eight feet in height;

2. No structure on the property provided for herein shall occupy any easement for public utility purposes.

E. Where the main structure on a site encroaches into the required front yard, a fence in conformance with Section 18.84.090(G) of this chapter may occupy the required front yard, provided that the fence does not encroach any further into the required front yard than the main structure. (Ord. 2000 § 1, 2009; Ord. 1884, 2003; Ord. 1862 § 1, 2002; Ord. 1322 § 1, 1987; Ord. 1296 § 1, 1987; prior code § 2-5.37)

18.84.090 Side and rear yards—Requirements and exceptions.

In addition to the regulations prescribed in the zoning schedule of this chapter, the following regulations shall apply:

A. On the street side of a corner lot the side yard shall not be less than twice the depth of the minimum side yard prescribed for the district, except that a side yard in excess of the required front yard depth shall not be required, and a side yard less than 10 feet shall not be permitted.

B. On a reversed corner lot the minimum rear yard may be not less than the minimum side yard prescribed for the district if the side yard adjoining the street is not less than the required front yard on the adjoining key lot, or 15 feet, whichever is greater.

C. Where the side or rear lot line of the site of a use other than a residential use in a district other than an R district adjoins an R district, the minimum side or rear yard shall be 10 feet greater than the minimum yard prescribed in the zoning schedule of this chapter; provided, that where the side or rear lot lines of a site in an I-G district adjoins an R district, the minimum side or rear yard shall be 50 feet.

D. On the side street of a corner lot, the minimum side yard for a garage, carport, or off-street parking space required to serve a dwelling in an R district shall be 20 feet; provided, that if the garage, carport or off-street parking space is entered parallel to the street, the minimum side yard shall be the same as the side yard otherwise required on the site.

E. At the time of the initial construction, principal structures in the R-1-8,500, R-1-7,500, R-1-6,500 and RM-4,000 districts may encroach into otherwise required rear yards to within 15 feet of the rear lot line; provided, that there remains a single unobstructed open space with an area equal to 120 percent of the area obtained by multiplying

the required rear yard dimension by the minimum lot width prescribed for these zoning districts. This unobstructed open area may be located in a side yard and/or in the area between the principal structure and the rear lot line and shall have a minimum dimension of not less than 15 feet.

Additions to principal structures in the R-1-8,500, R-1-7,500, R-1-6,500 and RM-4,000 districts may encroach into otherwise required rear yards to within 15 feet of the rear lot line, provided that there remains a single unobstructed open space with an area equal to 80 percent of the area obtained by multiplying the required rear yard dimension by the minimum lot width prescribed for these zoning districts. This unobstructed area may be located in a side yard and/or in the area between the principal structure and the rear lot line and shall have a minimum dimension of not less than 15 feet.

No structure referred to in this section projecting into the required rear yard shall exceed one story in height.

F. Fences, walls, and hedges not over six feet in height, walks, driveways and retaining walls may occupy a required side or rear yard, except that solid fences, walls, and hedges in the side yard on the street corner of a corner lot may not exceed a height of 30 inches, and open fencing, such as wrought iron, split rail, picket style, or other similar types of open fencing, may not exceed a maximum height of 42 inches. In conjunction with the open fence, a solid base of brick or split face block up to a height of 18 inches may be constructed so long as the total fence height does not exceed 42 inches, and decorative columns, caps, or pilasters up to a height of 48 inches, generally separated by a distance of six feet may be constructed. “Open picket style fencing” is defined as fencing which consists of narrow vertical boards, generally three inches to four inches in width, with at least 33 percent of the fence area being open to view. No such structure or hedge shall pose a traffic sight obstruction. In the C-S, C-A, I-P and I-G districts, fences as high as eight feet may be allowed in conjunction with outdoor storage areas. The upper two feet of such fences may contain barbed wire. Permission of the zoning administrator shall be required for such over height fences and may be denied if the zoning administrator determines the appearance of such fencing would conflict with the purposes of this title or if such fencing would be detrimental to the public health or general welfare.

In the R-1-6,500 and R-1-7,500 districts, fences, walls and hedges not over six feet in height may be located to within five feet of the side property line on the street side of a corner lot between the rear property line and a point set back 15 feet from the front corner of the residence closest to the side street.

G. Fences, walls and hedges greater than six feet but not over eight feet in height may occupy a required side or rear yard upon approval by the zoning administrator.

1. Application for an over height fence, wall or hedge pursuant to this subsection shall be made with the zoning administrator and shall be subject to design review.
2. The zoning administrator may require noticing up to 300 feet from the property lines in order to continue processing the design review application. If the determination to notice the application is made, it may be subject to a zoning administrator hearing.
3. If a zoning administrator hearing is conducted, the zoning administrator may approve, conditionally approve, or deny the application and shall find that the application:
    a. Conforms to the objectives of this title;
    b. Assists in providing privacy, in attenuating sound transmission, and/or in reducing other annoyance from neighboring properties; and
    c. Does not significantly impact upon the aesthetics and safety of the neighborhood nor the light and air to all affected properties.
4. The zoning administrator’s decision may be appealed to the planning commission. (Ord. 1994 § 2, 2009; Ord. 1862 § 1, 2002; Ord. 1656 § 1, 1995; Ord. 1266 § 1, 1986; Ord. 1194 § 1, 1985; Ord. 1182 § 1, 1985; Ord. 1124 § 1, 1984; prior code § 2-5.38)

and other relevant dimensions shall be reduced proportionately from those shown in Table 18.88.040 of this section for full sized parking spaces, subject to the approval of the city. Each compact car space shall be marked clearly with bold lettering no less than eight inches in height "Compact Car Only."

B. Sufficient aisle space for readily turning and maneuvering vehicles shall be provided on the site, except that no more than two parking spaces on the site of a dwelling or lodging house may be located so as to necessitate backing a vehicle across a property line abutting a street. Alleys may be used for maneuvering.

C. Each parking space shall have unobstructed access from a street or alley or from an aisle or drive connecting with a street or alley without moving another vehicle.

D. Entrances from and exits to streets and alleys shall be provided at locations approved by the community development director.

E. In an R district, a drive providing access to off-street parking spaces shall not exceed 24 feet in width, and there shall be not more than one drive for each 70 feet of frontage except on corner lots. If more than one drive is proposed on a corner lot, the superintendent of streets may approve an encroachment permit if he or she finds that the proposal is consistent with the objectives of this chapter and will not create an unsafe condition for pedestrians and drivers.

F. In an RM district, a pedestrian walk separated from a parking space, aisle, or access drive by at least four feet of landscaped space shall extend from the front lot line to each dwelling unit, and no parking space, aisle, or access drive shall be closer than six feet to an entrance to a dwelling unit or to a window opening into a habitable room having a floor level less than eight feet above the parking space, aisle or access drive.

G. No off-street parking space provided in compliance with Section 18.88.030 of this chapter shall be located in a required front yard or in a required side yard on the street side of a corner lot and not more than two spaces per site shall be located so as to necessitate use of a required front yard or a required side yard on the street side of a corner lot for backing.

H. The parking spaces, aisles and access drives shall be paved so as to provide a durable, dustless surface and shall be so graded and drained as to dispose of surface water without damage to private or public properties, streets or alleys.

I. Bumper rails shall be provided at locations prescribed by the zoning administrator where needed for safety or to protect property.

J. If the parking area is illuminated, lighting shall be deflected away from residential sites so as to cause no annoying glare.

K. No repair work or servicing of vehicles shall be conducted on a parking area.

L. In R districts, parking of vehicles other than automobiles shall be regulated by Section 18.84.270 of this title.

M. No off-street parking space shall be located on a portion of a site required to be landscaped with plant materials.

Table 18.88.040

MINIMUM PARKING SPACE DIMENSIONS

Description of Dimension	Parking Angle									
	0°	20°	30°	40°	45°	50°	60°	70°	80°	90°
Parking space width perpendicular to aisle	9′	9′	9′	9′	9′	9′	9′	9′	9′	9′
Parking space dimension perpendicular to aisle	9′	14′6″	16′10″	18′8″	19′5″	20′	20′8″	20′9″	20′2″	19′
Parking space dimension parallel to aisle	23′	24′8″	17′	13′2″	12′	11′1″	9′10″	9′	9′	9′
Aisle width	12′	11′	11′	12′	13′6″	15′6″	18′6″	19′6″	24′	25′

(Ord. 2000 § 1, 2009; prior code § 2-9.17)

18.88.050 Location.

A. In all districts except the C-C and P districts, off-street parking facilities prescribed in Section 18.88.030 of this chapter shall be located on the same site as the use for which the spaces are required or on an adjoining site or a site separated only by an alley from the use for which the spaces are required.

B. In a C-C or P district, a use permit may be granted to permit off-street parking facilities prescribed in Section 18.88.030 of this chapter to be separated from the site of the use for which the spaces are required, if located within 300 feet of the site, measured by the shortest route of pedestrian access, provided that the planning commission shall find that the parking site is not in conflict with the Pleasanton central district development plan adopted by the city council. (Prior code § 2-9.18)

18.88.060 More than one use on site or adjoining site.

If more than one use is located on a site, on adjoining sites, or sites separated only by an alley, and in the C-C and P districts within 300 feet of the site, the number of parking spaces provided shall be equal to the sum of the requirements prescribed in this chapter for each use except that the total number of spaces may be reduced when the hours of operation of at least two of the uses are discrete. “Discrete uses” are defined as those which:

A. Are not in operation at the same time; and

B. The hours of operation are or may be controlled by conditional use permits; and

C. The uses share the same off-street parking facility.

D. The total number of spaces otherwise required may be reduced by not more than the parking requirement of the discrete use requiring the fewer parking spaces. (Prior code § 2-9.19(1))

18.88.070 Off-street parking facilities to serve one use.

Off-street parking facilities for one use shall not be considered as providing off-street parking facilities for any other use, except as provided in Section 18.88.090 of this chapter, and except that property owners may lease or rent excess parking spaces on a site to other property owners within 300 feet of the site upon approval of a use permit as provided for in Section 18.88.050 of this chapter. Excess parking spaces are those spaces which are over and above the minimum required for the use or uses on the site. The planning commission shall deny a use permit to lease or rent excess parking spaces if it finds that the nature of the use or uses on the donor site requires the use of the excess parking spaces. (Ord. 1898 § 1, 2003; prior code § 2-9.19(2))

18.88.080 Reduction of off-street parking.

No off-street parking facility shall be reduced in capacity or in area without sufficient additional capacity or additional area being provided to comply with the regulations of this chapter. (Prior code § 2-9.19(3))

18.88.090 Joint use in C-C and C-S districts.

Adjoining off-street parking facilities serving uses on two or more sites in separate ownership that provide shared parking through reciprocal parking easements may provide parking at the rate of one space for each 400 square feet of gross floor area where the zoning administrator determines that provision has been made for the joint development to function as a single parking facility, all parts of which are accessible to each use served. Parking spaces in such parking lots shall not be reserved or designated for the use of any one business. Off-street parking facilities provided in accord with this section shall be designated as prescribed in Section 18.88.130 of this chapter. (Ord. 1898 § 1, 2003; prior code § 2-9.19(4))

18.88.100 Parking assessment district.

The following parking requirements listed in subsections A through C of this section shall apply to properties located within the parking assessment district located within the block bounded by Peters Avenue, St. Mary Street, Division Street, and Main Street:

A. Except for the uses listed in Section 18.88.030(A) of this chapter and restaurants, any parcel of real property which is located wholly or partially within the boundaries of a parking assessment district which provides public off-street parking facilities shall be permitted to construct a building the total square footage of which shall not exceed 80 percent of the buildable area of the lot not included within the public parking facility, without the need to provide additional parking. Any building erected or subsequent addition which exceeds 80 percent of the buildable area of the lot shall provide additional parking or pay a sum established pursuant to Section 18.88.120 of this chapter; additional parking shall be computed in accordance with Section 18.88.030 of this chapter, but shall not include that portion of the building which is exempt from parking requirements as indicated in this section and shall not include building additions which increase the number of required parking spaces by less than 10 percent.

B. Any parcel of real property located wholly or partially within the boundaries of a parking assessment district referred to in subsection A of this section which is used for restaurant purposes shall be permitted to construct a building, the total square footage of which will not exceed 56 percent of the buildable area of the lot without the need to provide additional parking. Any building in excess of the limitation imposed in this section shall be subject to the same requirements for additional parking as set forth in subsection A of this section.

C. Any building in existence at the time of the establishment of the parking assessment district within which it is located, which exceeds the buildable area provisions set forth in subsection A of this section shall be deemed nonconforming and shall not be subject to additional parking requirements in the following cases:

    1. The building is altered, modified, or enlarged such that the number of required spaces increases by less than 10 percent.

    2. Less than 50 percent of the building is destroyed by fire, earthquake, or other calamity, act of God, or by the public enemy, or, in cases where greater than 50 percent is destroyed, design review approval is given to a new commercial structure replacing the one which was destroyed, pursuant to the criteria stated in Section 18.88.020(D)(2) of this chapter.

D. For parking assessment districts other than those referred to in subsections A through C of this section, the building floor area credits for properties contributing to the district with either land, improved parking spaces, or cash shall be determined on a case by case basis depending on the circumstances for the particular parking assessment district. Such circumstances shall include, but shall not be limited to, the amount of parking spaces, land, or cash contributed; the total number of parking spaces created; the assessment formula for the district agreed to by the property owners within the district; and the location of the contributing property. The standard parking ratio for each parking lot at build out shall be one space for each 500 square feet of gross building area. Property owners contributing more parking or land than needed for their building may receive cash reimbursements or parking

spaces credits which may be recognized and transferred as in lieu parking spaces if so approved at the time the parking assessment district is formed. (Ord. 1898 § 1, 2003; prior code § 2-9.20)

18.88.110 Existing uses.

No existing use of land or structure, except one located within a parking assessment district, shall be deemed to be nonconforming solely because of the lack of off-street parking facilities prescribed in this chapter, provided that facilities used for off-street parking on the effective date hereof, shall not be reduced in capacity to less than the number of spaces prescribed in this chapter or reduced in area to less than the minimum standards prescribed in this chapter. (Prior code § 2-9.21)

18.88.120 In lieu parking agreement for the downtown revitalization district.

A. The owner of a parcel or parcels within the downtown revitalization district who is unable to provide all of the off-street parking required by this code may apply to the city for an in lieu parking agreement. The procedures to be followed for such in lieu parking agreements shall be as follows:

   1. New construction which provides at least 85 percent of its required parking on site and expansions to existing buildings which are less than or equal to 25 percent of the building's existing floor area may satisfy their parking deficits through in lieu parking agreements. Such agreements shall be approved ministerially by the community development director upon finding that the criteria of this section are met.

   2. New construction which provides less than 85 percent of its required parking on site and expansions to existing buildings which exceed 25 percent of the building's existing floor area may satisfy their deficit parking through in lieu parking agreements. Such agreements shall be subject to the approval of the city council. The request for such an agreement shall be in writing and shall be filed with the planning division. Subsequent to receipt of such a request, a hearing shall be scheduled for consideration of the matter by the city council. A public hearing shall be held on any such request with notice provided pursuant to Section 18.12.040 of this title. The in lieu parking agreement shall address the amount per deficient parking space to be paid by the owner, the duration of payment, and such other terms and conditions which are deemed appropriate. The city council may grant or deny the request.

B. Any sums received by the city pursuant to such a contract shall be deposited in a special fund and shall be used exclusively for acquiring, developing, and maintaining off-street parking facilities and located anywhere within the downtown revitalization district. The agreement shall be executed by the owner and the city manager, and all in lieu fees shall be paid prior to the issuance of a building permit.

C. The city shall determine a standard surface parking lot in lieu parking fee and a parking structure in lieu parking fee based on land and construction costs in the downtown revitalization district. Such fees shall be updated on a regular basis by the city and shall be made available to the public. On April 1st of any year in which the fees have not been recalculated, the fees shall be adjusted by the rate of increase in the ENR construction cost index for the prior year.

D. Any development for which an in lieu parking agreement is approved where the number of in lieu spaces is less than or equal to 30 percent of its parking requirement shall pay the standard surface parking lot in lieu fee for each deficient parking space.

E. Any development for which an in lieu parking agreement is approved where the number of in lieu parking spaces exceeds 30 percent of its parking requirement shall pay the parking structure in lieu parking fee for each deficient parking space.

F. In lieu parking agreements for which the requested number of in lieu parking spaces exceeds 50 percent of the required parking shall not be approved unless the city council finds that there are special circumstances related to: (1) constraints due to the size, configuration, or features of the site; or (2) constraints related to building placement or design; and (3) the availability of off-street parking.

G. In the event that a use for which an in lieu parking agreement has been executed is changed or facilities are altered to meet the parking standards prescribed in this chapter before the city has committed or expended any of

the money received pursuant to said agreement in the area benefited, the amount received shall be refunded to the owner. Otherwise, there shall be no refunds of in lieu fees. (Ord. 2000 § 1, 2009; Ord. 1898 § 1, 2003; prior code § 2-9.22)

18.88.130 Designation of facilities.

A restrictive covenant, easement, or other document acceptable to the city attorney shall be recorded with the Alameda County recorder's office for any off-street parking facility which is: (a) held open to the public, (b) a joint use parking lot, or (c) located on a site other than the site it is intended to serve. The restrictive covenant or other document shall designate the off-street parking facilities and the properties being served by such parking facilities, shall stipulate that the parking facility will be used for the intended purpose, and shall contain legal descriptions of all sites involved. The restrictive covenant or other document shall be approved by the city attorney. The zoning administrator shall remove the restriction upon finding that the required number of off-street parking spaces or in lieu parking fees have been provided in compliance with the requirements of this chapter. (Ord. 1898 § 1, 2003; prior code § 2-9.23)

Chapter 18.92

OFF-STREET LOADING FACILITIES

Sections:

18.92.010 Purpose.

In order to alleviate progressively or to prevent traffic congestion and shortage of curb spaces, off-street loading facilities shall be provided incidental to new uses and major alterations and enlargements of existing uses. The number of loading berths prescribed in this chapter or to be prescribed by the zoning administrator shall be in proportion to the need for such facilities created by the particular type of use. Off-street loading areas are to be laid out in a manner that will ensure their usefulness, protect the public safety, and where appropriate, insulate surrounding use from their impact. (Prior code § 2-9.27)

18.92.020 Basic requirements.

A. At the time of initial occupancy, major alteration or enlargement of a site, or of completion of construction of a structure or of a major alteration or enlargement of a structure, there shall be provided off-street loading facilities for trucks in accord with the schedule of off-street loading berth requirements in Section 18.92.030 of this chapter. For the purposes of this section, the terms "major alteration" or "enlargement" shall mean a change of use or an addition which would increase the number of loading berths required by not less than 10 percent of the total number required. The number of loading berths provided for a major alteration or enlargement of a site or structure shall be in addition to the number existing prior to the alteration or enlargement, unless the preexisting number is greater than the number prescribed in Section 18.92.030 of this chapter, in which instance the number in excess of the prescribed minimum shall be counted in calculating the number provided to serve the major alteration or enlargement.

B. Off-street loading berths in addition to those prescribed in the schedule of off-street loading berth requirements shall be provided if the zoning administrator finds that such additional berths are necessary to ensure that trucks will not be loaded, unloaded or stored on public streets. A finding shall be based on an investigation of the anticipated frequency of truck pick ups and deliveries and of the truck storage requirements of the use for which the off-street loading berths are required.

C. If, in the application of the requirements of this section, a fractional number is obtained, one loading berth shall be provided for a fraction of one-half or more, and no loading berth shall be required for a fraction of less than one-half. (Prior code § 2-9.28)

18.92.030 Schedule of off-street loading berth requirements.

A. Exemptions from loading berth requirements: banks, service stations, public and private offices, car washes, hotels and motels.

B. Food stores:

Gross Floor Area	Number of Berths	Dimension of Berth
0-3,999 sq. ft.	0	—
4,000—9,999 sq. ft.	1	10 x 30 or 12 x 45 as determined by zoning administrator.
10,000—69,999 sq. ft.	2	12 x 45
70,000—120,000 sq. ft.	3	12 x 45
One berth for each additional 100,000 sq. ft.		12 x 45

C. Retail stores, excluding food stores, but including restaurants, bars and soda fountains:

Gross Floor Area	Number of Berths	Dimension of Berth
0—3,999 sq. ft.	0	—
4,000—29,999 sq. ft.	1	10 x 30
30,000—69,999 sq. ft.	2	12 x 45
70,000—120,000 sq. ft.	3	12 x 45
One berth for each additional 100,000 sq. ft.		12 x 45

D. Commercial service enterprises (and wholesale uses):

Gross Floor Area	Number of Berths	Dimension of Berth
0—9,999 sq. ft.	0	—
10,000—29,999 sq. ft.	1	12 x 45
30,000—69,999 sq. ft.	2	12 x 45
70,000—120,000 sq. ft.	3	12 x 45
One berth for each additional 100,000 sq. ft.		12 x 45

E. Manufacturing plants, other industrial uses:

Gross Floor Area	Number of Berths	Dimension of Berth
0—3,999 sq. ft.	0	—
4,000—29,999 sq. ft.	1	12 x 45
30,000—69,999 sq. ft.	2	12 x 45
70,000—120,000 sq. ft.	3	12 x 45
One berth for each additional 100,000 sq. ft.		12 x 45

F. Institutional uses:

Gross Floor Area	Number of Berths	Dimension of Berth
0—9,999 sq. ft.	0	—
10,000—99,999 sq. ft.	1	12 x 45
100,000—200,000 sq. ft.	2	12 x 45
200,000 +	3	12 x 45

G. Mortuaries:

Gross Floor Area	Number of Berths	Dimension of Berth
0—500 sq. ft.	1	10 x 30
One berth for each additional 10,000 sq. ft.		10 x 30

H. Open uses: designated loading berths required as determined by the zoning administrator.

Other uses: designated loading berths required as determined by the zoning administrator. (Prior code § 2-9.29)

18.92.040 Standards.

All off-street loading facilities, whether provided in compliance with Section 18.92.030 or not, shall conform with the regulations prescribed in Sections 18.84.180 through 18.84.260 of this code and with the following standards:

A. Each loading berth shall be not less than 45 feet in length and twelve feet in width and shall have an overhead clearance of not less than 14 feet, except that for mortuaries, cemeteries, columbariums and crematories, a loading berth used exclusively for hearses shall be not less than 24 feet in length and 10 feet in width and shall have an overhead clearance of not less than eight feet.

B. Sufficient room for turning and maneuvering vehicles shall be provided on the site, except that not more than one loading space per site may be located so as to necessitate backing a vehicle across a property line abutting a street. Alleys may be used for maneuvering.

C. Each loading berth shall have unobstructed access from a street or alley or from an aisle or drive connecting with a street or alley without moving another vehicle.

D. Entrances from and exits to streets and alleys shall be provided at locations approved by the community development director.

E. The loading area, aisles and access drives shall be paved so as to provide a durable, dustless surface and shall be so graded and drained as to dispose of surface water without damage to private or public properties, streets or alleys.

F. Bumper rails shall be provided at locations prescribed by the zoning administrator where needed for safety or to protect property.

G. If the loading area is illuminated, lighting shall be deflected away from abutting residential sites so as to cause no annoying glare.

H. Loading areas shall be appropriately screened, as determined by the zoning administrator, from adjacent properties and from the street. No loading berth shall be allowed in a required front yard or a required side yard or the street side of a corner lot, or in a required rear or side yard adjacent to or across a street or alley from an R district.

I. No repair work or servicing of vehicles shall be conducted in a loading area. (Ord. 2000 § 1, 2009; prior code § 2-9.30)

18.92.050 Location.

Off-street loading facilities prescribed in Section 18.92.030 of this chapter shall be located on the same site with the use for which the berths are required or on an adjoining site in a district in which the use served by the off-street loading facilities is a permitted use. (Prior code § 2-9.31)

18.92.060 More than one use on site.

If more than one use is located on a site, the number of loading berths provided shall be equal to the sum of the requirements prescribed in this chapter for each use. If more than one use is located on a site and the gross floor area of each use is less than the minimum for which loading berths are required but the aggregate gross floor area is greater than the minimum for which loading berths are required, off-street loading berths shall be provided as if the aggregate gross floor area were used for the use requiring the greatest number of loading berths. (Prior code § 2-9.32(1))

18.92.070 Facilities to serve one use.

Off-street loading facilities for one use shall not be considered as providing required off-street loading facilities for any other use. (Prior code § 2-9.32(2))

title shall be subject to design review by the planning commission. Applicants are advised to confer with the zoning administrator before preparing detailed plans. (Ord. 1656 § 1, 1995; Ord. 1520 § 3, 1991; Ord. 1492 § 3, 1990; Ord. 1162 § 4, 1984; prior code § 2-9.52)

18.96.160 Temporary relaxation of sign regulations.

A. The community development director is empowered to grant temporary exceptions to the Sign Ordinance regulations to allow businesses to install temporary signs, banners, and/or decorations during public construction projects if the director finds that one or more of the following criteria is met:

   1. A perceptible reduction in pedestrian or vehicular traffic due to construction activity near a business.

   2. Reduced pedestrian or vehicular access to a business due to construction activity.

   3. Reduced visibility of a business due to construction activity.

   4. Any other perceptible hardship that a business and/or property owner can demonstrate as a direct result of construction activity.

B. Upon finding that one or more of the above criteria has been met, the community development director shall: (1) establish standards for the number, types, and sizes of signs and decorations, (2) determine the applicable businesses/properties that may utilize the temporary signs and decorations, and (3) determine the duration that the temporary signs and decorations may be displayed (the time period shall generally end at the completion of work and/or reopening of road(s) to traffic).

C. The community development director shall ensure that no sign is erected which is detrimental to the public health, safety, or welfare and shall cause a sign to be removed if it is found to be such a detriment.

D. Any action of the community development director may be appealed to the planning commission or city council by any affected party pursuant to requirements of Chapter 18.144 (Appeals) of this title. (Ord. 2000 § 1, 2009; Ord. 1628 § 1, 1994)

Chapter 18.100

POLITICAL SIGNS, SIGNS ANNOUNCING COMMUNITY EVENTS AND RELIGIOUS HOLIDAY BANNERS

Sections:

18.100.010 Purpose.

In order to protect the rights of political candidates and those wishing to support or oppose candidates or ballot measures (and those wishing to announce community events), while protecting the public from traffic safety hazards, structural sign hazards, aesthetic blight, litter and loss of meaning of the message of such signs, the regulations provided in this chapter are adopted. (Prior code § 2-9.60)

18.100.020 Exemption.

No permit shall be required of any political campaign sign or community event sign which does not exceed the size limitations provided in this chapter so long as such signs are placed on private property. Political campaign signs and community event signs which are within the size and placement requirements of this chapter shall be exempt from the requirements of Chapter 18.96 of this title. (Prior code § 2-9.61)

18.100.030 Definitions.

Unless it appears from the context that a different meaning is intended, the following words shall have the meanings given them in this chapter:

A. "City" means the city of Pleasanton, a municipal corporation in the state of California.

B. "Community event sign" means any signs, banners or displays of a patriotic, civic or community nature.

C. "Person" means any person, firm, partnership, association, corporation, company, committee for support or opposition of candidates or ballot measures or organizations of any kind.

D. "Political campaign sign" means any sign urging the election or defeat of any candidate seeking any political office, or urging the passage or defeat of any ballot measure but does not mean or include any billboard owned or maintained by a commercial firm or advertising company.

E. "Public property" means all property owned by the city or other public agency within city boundaries, including but not limited to any building owned, operated or leased by a public agency; any street, bicycle or pedestrian right-of-way owned or controlled by the city; and public park recreation area, parkway, planter strip or other pub-

Chapter 18.106

SECOND UNITS*

Sections:

* **Prior ordinance history:** Ord. 1812 § 1, 2000.

18.106.010 Purpose.

Second units are a valuable form of housing in the city. These units meet the city's general plan housing policies related to: attaining a variety of housing types; providing housing stock to lower income households; including lower income housing units within market rate housing projects; providing alternative, nontraditional means suited to the community to fill lower and moderate income housing needs; meeting the city's share of regional housing needs; providing a means to assist homeowners in financing the acquisition of a home; and providing security to homeowners living alone.

The further purpose of this chapter is to comply with the requirements of Assembly Bill 1866 (2002) codified in California Government Code Section 65852.2. To do so, this chapter identifies those zoning districts where a second unit meeting enumerated standards to ensure neighborhood compatibility is a permitted use in that district. (Ord. 1885 § 2, 2003)

18.106.020 Use requirements.

A. A second unit is a permitted use in the R-1 one-family residential district, RM multi-family residential district, planned unit developments zoned for residential uses and A agricultural district, if the original unit is a legal single-family dwelling unit and the second unit meets all of the standards set forth in Section 18.106.060 of this chapter and the applicable site standards in Section 18.106.040 of this chapter for attached second units and in Section 18.106.050 of this chapter for detached second units. A public hearing for design review purposes only shall be held if required by Chapter 18.20 of this title.

B. The application for a second unit shall be submitted to the planning division prior to the application for a building permit to the building division and shall include:

   1. Plot plan (drawn to scale) showing the dimensions of the lot on which the second unit will be located; the location and dimensioned setbacks of all existing and proposed structures on the proposed site; all easements; building envelopes; and parking for the project site.

   2. Floor plans of the entire structure with each room dimensioned and the resulting floor area calculated. The use of each room shall be identified.

   3. Deed restriction completed as required, signed and ready for recordation.

C. When the site development regulations of this chapter (e.g., height, setback, size of the second unit) conflict with specific regulations in a planned unit development or specific plan for second units (not simply regulations for general class I accessory structures), the planned unit development and specific plan shall control. (Ord. 2000 § 1, 2009; Ord. 1885 § 2, 2003)

18.106.030 Density and growth management program.

A. A second unit shall not be considered in applying the growth management program in Chapter 17.36 of this code.

B. A second unit is not considered to increase the density of the lot upon which it is located. (Ord. 1885 § 2, 2003)

18.106.040 Standards for attached second units—Height limitations, setbacks, open space, and other regulations.

Attached second units shall meet the requirements in Section 18.106.060 of this chapter and the following requirements:

A. Attached second units shall be subject to the maximum height, and the minimum front, rear, and side yard requirements of the main structure.

B. The gross floor area of an attached second unit greater than a 150 square foot efficiency unit shall not exceed 30 percent of the gross floor area of the existing main dwelling unit. In this instance, the gross floor area of the existing main dwelling unit is the size of the unit prior to the second unit addition/conversion.

C. Except as modified by this chapter, all other regulations embodied in the zoning of the property for main dwellings shall apply to the development of attached second units. (Ord. 1885 § 2, 2003)

18.106.050 Standards for detached second units—Height limitations, setbacks, open space, and other regulations.

Detached second units shall meet the requirements in Section 18.106.060 of this chapter and the following requirements:

A. Detached second units shall not exceed 15 feet in height and shall be limited to one-story structures.

B. Detached second units shall be subject to the following minimum setback requirements:

Zoning District	Side Yard Setback	Rear Yard Setback
One-family residential lots in the R-1-40,000 district and in planned unit developments which follow the site development standards of the R-1-40,000 district	20 feet	20 feet
All other lots	5 feet[1]	10 feet

1. Side yard setback shall be a minimum of 10 feet on the street side of a corner lot.

C. The gross floor area of a detached second unit shall not exceed 1,200 square feet.

D. Except as modified by this chapter, all other regulations embodied in the zoning of the property for class I accessory structures shall apply to the development of detached second units on one-family residential lots. (Ord. 1885 § 2, 2003)

18.106.060 Required standards for all second units.

All second units shall meet the following standards:

A. Only one other residential unit shall be permitted on a lot with a second unit and one of the residential units shall be owner occupied. The resident owner shall be a signatory to any lease for the rented unit and shall be the applicant for any permit issued under this chapter.

B. The second unit shall not be sold or held under a different legal ownership than the primary residence; nor shall the lot containing the second unit be subdivided.

C. One additional off-street parking space on the lot shall be made continuously available to the occupants of the second unit.

D. The maximum floor area ratio requirement of a lot shall not be exceeded due to the addition/conversion of space to accommodate an attached or detached second unit.

E. The second unit shall have access to at least 80 square feet of open space on the lot.

F. The resident owner shall install address signs that are clearly visible from the street during both daytime and evening hours and which plainly indicate that two separate units exist on the lot, as required by the fire marshal. The resident owner shall obtain the new street address for the second unit from the planning division.

G. Adequate roadways, public utilities and services shall be available to serve the second unit.

H. The owner of the lot on which a second unit is located shall participate in the city's monitoring program to determine rent levels of the second units being rented.

I. The second unit shall not be located on property that is listed in the California Register of Historical Places.

J. The second unit shall comply with other zoning and building requirements generally applicable to residential construction in the applicable zone where the property is located.

K. A restrictive covenant shall be recorded against the lot containing the second unit with the Alameda County recorder's office prior to the issuance of a building permit from the building division stating that:

> The property contains an approved second unit pursuant to Chapter 18.106 of the Pleasanton Municipal Code and is subject to the restrictions and regulations set forth in that Chapter. These restrictions and regulations generally address subdivision and development prohibitions, owner occupancy and lease requirements, limitations on the size of the second unit, parking requirements, and participation in the city's monitoring program to determine rent levels of the second units being rented. Current restrictions and regulations may be obtained from the city of Pleasanton planning division. These restrictions and regulations shall be binding upon any successor in ownership of the property.

(Ord. 2000 § 1, 2009; Ord. 1885 § 2, 2003)

Chapter 18.108

TRAILERS AND TRAILER PARKS

Sections:

18.108.010 Occupancy requirements.

Except as provided in Sections 18.108.040 and 18.116.010, no trailer (mobilehome) shall be occupied or used for living or sleeping purposes unless it is located in a licensed trailer park, provided that a trailer may be used as an office for a construction project. (Prior code § 2-10.26))

18.108.020 Parking restriction.

No trailer, whether designed for living or sleeping purposes or not, shall be parked or stored in an R district, except as prescribed in Sections 18.84.270 and 18.108.040. (Prior code § 2-10.27)

18.108.030 Required conditions for trailer parks.

Trailer parks permitted as conditional uses in the RM and C-F districts shall comply with the regulations prescribed in Chapter 18.84 of this title, except as provided in this section:

A. The minimum site area for trailer park shall be five acres, provided that preexisting trailer park shall be five acres, conforming by reason of failure to meet the minimum site area requirement. A preexisting trailer park conforming in all respects except site area may be expanded, but shall not be reduced in area.

B. There shall be 4,000 square feet of site area for each trailer space. A preexisting trailer park shall not be deemed nonconforming by reasons of failure to meet the minimum site area per trailer space requirement, and may be enlarged, provided that there shall be 4,000 square feet of additional site area for each trailer space added.

C. A trailer park shall meet the usable open space requirements for the district in which it is located; provided, that a trailer park in a C-F district shall meet the open space requirements for the RM-1,500 district; and provided, that each trailer park shall have in addition at least one recreation space not less than 5,000 square feet in area and suitably developed for the use of residents of the trailer park.

D. Not more than one dwelling unit shall be located on the site of a trailer park in a C-F district.

E. No trailer or dwelling unit shall be located in a required yard or less than 20 feet from a street property line or another trailer or less than 15 feet from a property line not abutting a street.

F. All areas used for automobile circulation or parking shall be improved as prescribed for required parking facilities in Section 18.88.040.

G. The site shall be landscaped as required in Sections 18.84.130 through 18.84.260, and shall have additional landscaping, including trees, shrubs, and lawn, as determined by the board of design review to provide a suitable setting. (Prior code § 2-10.28)

18.108.040 Trailers on school sites.

A trailer may be occupied or used for living or sleeping purposes on a developed public or private school site or college site, provided that such trailer is occupied for the purpose of reducing vandalism and other damage to school facilities. A conditional use permit, in accordance with Chapter 18.124 of this title, is required for installation of a trailer. (Prior code § 2-10.29)

Chapter 18.110

PERSONAL WIRELESS SERVICE FACILITIES

Sections:

18.110.005 Purpose.

The purpose and intent of this chapter is to provide a comprehensive set of standards for the development and installation of personal wireless service facilities. The regulations contained herein are designed to protect and promote public safety and community welfare, property values, and the character and aesthetic quality of Pleasanton, while at the same time not unduly restricting the development of personal wireless service facilities, and not unreasonably discriminating among personal wireless service providers of functionally equivalent services. (Ord. 1743 § 1, 1998)

18.110.010 Applicability.

A. This chapter shall apply to all property owned by private persons, firms, corporations or organizations, and property owned by the city, including public streets and alleys, and property owned by any agencies of the city, or by any local, state, or federal government, agency, or political subdivision thereof required to comply with local government regulations as required by law or by written agreement, with the exception of the following facilities:

1. Amateur (including ham and shortwave) radio facilities on private property provided that the antenna does not exceed 65 feet in height or is not more than 25 feet above the height limit prescribed by the regulations for the district in which the facility is located, whichever is less. Amateur radio facilities on private property are subject to design review as provided in subsection 18.20.040(B)(2) of this title.
2. Amateur (including ham and shortwave) radio facilities on public property provided:
   a. The facilities do not exceed 65 feet in height or are not more than 25 feet above the height limit prescribed by the regulations for the district in which the facilities are located, whichever is less;
   b. The facilities provide emergency communication backup services for the city;
   c. The facilities are officially recognized and approved by the city's emergency preparedness officer, fire chief, or community development director and operations services director.
3. Personal wireless service facilities which are not licensed by the Federal Communications Commission and are determined by the zoning administrator to have little or no adverse visual impact.
4. Direct-to-home satellite services.
5. Personal wireless service facilities used only by the city, hospitals, and ambulance services in emergencies or for the protection and promotion of the public health, safety, and general welfare.
6. Any personal wireless service facility located on land owned by one of the public entities listed below and operated for the public entity's public purpose only and not for commercial reasons:
   a. The United States of America or any of its agencies;
   b. The State or any of its agencies or political subdivisions not required by state law to comply with local zoning ordinances;
   c. Any other city (other than the city of Pleasanton), county, or special district;
   d. The Pleasanton unified school district. (Ord. 2000 § 1, 2009; Ord. 1743 § 1, 1998)

18.110.020 Notice and approval process.

A. All personal wireless service facilities shall be subject to design review approval by the zoning administrator as provided in Chapter 18.20 of this title. The zoning administrator, upon making a finding that the proposed personal wireless service facility meets all applicable provisions of this chapter, shall approve or conditionally approve the design review application for the personal wireless service facility. The zoning administrator may refer any personal wireless service application to the planning commission for review and action.

B. All property owners within 600 feet of a property on which a personal wireless service facility is proposed shall be notified of the personal wireless service facility application as provided in subsection 18.20.040(B)(2) of this title. Public hearings can be requested as provided in subsection 18.20.040(B)(2) of this title. (Ord. 1743 § 1, 1998)

18.110.030 Revocation of approval.

A. If the zoning administrator finds that a use is not in compliance with this chapter, that conditions of approval have not been fulfilled, or that there is a compelling public necessity, the zoning administrator shall notify the personal wireless service facility provider of the same, in writing, and state the actions necessary to cure. After 30 days from the date of notification, if the said use is not brought into compliance with this chapter, the conditions of approval have not been fulfilled, or there is still a compelling public necessity, the zoning administrator shall refer the use to the planning commission for review. Such reviews shall occur at a noticed public hearing where the personal wireless service provider may present relevant evidence. If, upon such review, the commission finds that any of the above has occurred, the commission may modify or revoke all approvals and/or permits.

B. The terms of this section shall not apply to preexisting legal nonconforming personal wireless service facilities which are subject to Section 18.110.260 of this chapter. (Ord. 1743 § 1, 1998)

18.110.040 Submittals.

A. For all proposed personal wireless service facilities, the personal wireless service provider shall provide the following to the zoning administrator:

1. A completed city design review application which includes the signature of the personal wireless service provider and the property owner.
2. All applicable fees including deposit fees for peer review.
3. Title reports.
4. Site plan, landscape plan, and elevations drawn to scale. The elevation drawings shall include all buildings on which the personal wireless service facilities are proposed to be located.
5. Cross sections and floor plans, drawn to scale, if an antenna is proposed to be façade- or roof-mounted.
6. Visual impact demonstrations including before and after photo-simulations and elevation drawings showing the height, design, color, and location of the proposed facility as viewed from public places.
7. Proposed means of establishing and maintaining maximum visual screening of unsightly public views of facilities, as needed, which includes submitting sample exterior materials and colors of towers, antennas, accessory structures (such as equipment cabinets and structures), and security fences.
8. The number, type. and dimensions of antennas, equipment cabinets, and related facilities proposed for use by the personal wireless service provider. The size of equipment cabinets and related facilities are not required if the cabinets and related facilities are located completely underground or entirely within a building, not including an equipment cabinet.
9. A report from a structural engineer, licensed by the state, regarding the number and type of antennas that a proposed or existing structure is designed to support.
10. Justification of why the proposed height and visual impact of the personal wireless service facility cannot be reduced on the proposed site.
11. A letter indicating whether, and why, each site identified is essential for completion of the personal wireless service provider's coverage objective.
12. A letter explaining the site selection process including information about three other sites which could service the same or similar coverage area and the reasons for their rejection, provided that three such alternatives exist and are reasonably available for the personal wireless services provider's use in the coverage area.
13. A map, to scale, showing the coverage area of the personal wireless service provider's existing, proposed, and future personal wireless service facilities within the city limits and within one-half mile therefrom.
14. A map, to scale, and a master plan of the personal wireless service provider's facilities in the city and those planned in the future, including information about the location, height, and design of each existing and planned personal wireless service facility within the city limits and within one-half mile therefrom.
15. A statement of intent whether the facility would be collocated.
16. A letter which states the personal wireless service provider's commitment to allow other personal wireless service providers to collocate antennas on their proposed facilities wherever structurally and technically feasible, and to provide at any time additional information, as requested by the zoning administrator, to aid in determining whether or not another personal wireless service provider could collocate on/near their facilities if approved.
17. A letter stating: (a) the power rating for all antennas and backup equipment proposed, (b) that the system, including the antennas, and associated equipment cabinets/structures, conforms to the radio frequency radiation emission standards adopted by the Federal Communications Commission, including operating within its frequency assigned by the Federal Communications Commission, and (c) that operation of the facilities in addition to ambient radio frequency emission levels will not exceed adopted Federal Communications Commission standards.

18. A letter stating that the proposed personal wireless service facility shall be operated in a manner which complies with the Federal Communications Commission's regulations regarding signal interference.
19. Reference to any easements necessary.
20. All proposed signage, including emergency signage as required by Section 18.110.160(B) of this chapter.

B. Additional information as deemed necessary by the zoning administrator which may include, but is not limited to, the following:

1. Information sufficient to determine that the personal wireless service provider has applied for and received all applicable operating licenses or other approvals required by the Federal Communications Commission and California Public Utilities Commission to provide personal wireless services within the city.
2. The types and range of sizes of antennas and equipment cabinets which could serve as alternatives for use by the personal wireless service provider.
3. A USGS topographic map or survey, to scale, with existing topographic contours showing the proposed antennas, accessory structures, and new roads in an area.
4. Technical data related to the site selection process.
5. A map based on drive tests (or similar engineering data) at the proposed site and its vicinity showing the estimated coverage area for the proposed personal wireless service facility. As used herein, drive tests are field tests to demonstrate the coverage of a proposed antenna in which one person holds a transmitter at the proposed site and another drives away from the site with a receiver to determine the outer perimeter of the radio signals that can be transmitted from the site.
6. A "mock-up" of the proposed personal wireless service facility at the proposed facility location using materials and colors that resemble the proposed facility.
7. A letter stating, wherever technically feasible, how the facilities have been designed to allow collocation of other carriers.
8. A letter stating specifically the reasons for not collocating on any existing personal wireless service facility tower or at any site with existing antennas within the city. The reasons for not collocating may include letters from personal wireless service providers with existing facilities stating reasons for not permitting collocation, or evidence that personal wireless service providers have not responded, or, if the reasons for refusal to collocate are structural, the structural calculations for review by the planning division.
9. Noise impact analysis.
10. A letter to the zoning administrator which describes in detail the maintenance program for the facilities.
11. Written proof of the availability of any required irrigation facilities on-site prior to permit issuance. This may be in the form of a letter from the owner of the land allowing the personal wireless service provider the use of required water facilities for landscaping. (Ord. 2000 § 1, 2009; Ord. 1743 § 1, 1998)

18.110.050 Locational standards.

A. A personal wireless service facility shall be a permitted use in any zoning district only if it complies with the locational standards stated in this section and with all regulations provided in this chapter.

B. A personal wireless service facility shall not be located in any residential or agricultural zoning district or in a planned unit development with a residential or agricultural zoning designation unless all of the following criteria are met:

1. The residential zoning district, agricultural zoning district, or planned unit development is developed, has an approved development plan, or is designated as a public and institutional land use in the general plan.
2. The area where the personal wireless service facility is proposed is designated as permanent open space or is designated as a public and institutional land use in the general plan.
3. The personal wireless service facility is located a minimum of 300 feet away from the property lines of all of the following:

18.110.100 Landscaping.

A. Landscaping may be required to screen personal wireless service facilities from adjacent properties or public view and/or to provide a backdrop to camouflage the facilities. All proposed landscaping is subject to the zoning administrator's review and approval. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized. Additional trees and other vegetation shall be planted and maintained around the facility, in the vicinity of the project site, and along access roads in appropriate situations where such vegetation is deemed necessary to provide screening of personal wireless service facilities and related access roads.

B. All ground-mounted antennas and related equipment and roads shall be substantially screened by landscaping so that their visual impact is minimized.

C. All trees used in landscaping shall be a minimum of 15 gallons in size and all shrubs a minimum of five gallons, unless otherwise approved.

D. Any adjacent, existing landscaping shall be preserved and refurbished if damaged during construction.

E. The personal wireless service provider shall enter into an agreement with the city, approved by the city attorney, which guarantees that all landscaping and open space areas included in the project shall be maintained at all times in a manner consistent with the approved landscape plan for the personal wireless service facility and its related equipment and roads. (Ord. 1743 § 1, 1998)

18.110.110 Setbacks and projections into yards.

A. All setbacks shall be measured from the furthest extent of a personal wireless service facility to the closest applicable property line or structure, with the exception of equipment shelters. Equipment shelters shall be measured from the outside wall of the shelter to the closest applicable property line or structure.

B. Personal wireless service facilities shall meet all applicable regulations for Class I or II accessory structures, whichever is applicable, in accordance with Chapter 18.84 of this title, with the following exceptions:

1. Underground equipment shelters or cabinets may adjoin property lines, if approved by the building division.

2. Ground-mounted antennas and related equipment shall not be located in front of main structures and/or along major street frontages where they will be readily visible.

3. The clear vertical height under a projection shall be at least 15 feet. (Ord. 2000 § 1, 2009; Ord. 1743 § 1, 1998)

18.110.120 Projections into public rights-of-way.

A. Ground-mounted antennas and related equipment shall not extend over a sidewalk, street, or other public right-of-way, except that ground-mounted antennas and related equipment on streetlight poles, traffic signals, and existing telephone poles may extend over a sidewalk or street, subject to zoning administrator and city engineer approvals.

B. Roof-mounted and façade-mounted antennas and their related equipment shall not extend over a street.

C. Roof-mounted and façade-mounted antennas and their related equipment may extend over a sidewalk provided that there shall be a setback of at least two feet between the curb and any portion of an antenna and its related equipment.

D. The clear vertical height under a projection shall be at least 15 feet. (Ord. 2000 § 1, 2009; Ord. 1743 § 1, 1998)

18.110.130 Number of antennas and facilities permitted.

A. The zoning administrator shall determine the number of antennas allowed per site on a case-by-case basis, with the goal of minimizing adverse visual impacts.

B. No more than three personal wireless service facility providers shall be permitted to collocate on a single building, tower, monopole, or other supporting structure. (Ord. 1743 § 1, 1998)

18.110.140 Noise.

A. All personal wireless service facilities shall be constructed and operated in such a manner as to minimize the amount of noise impacts to residents of nearby homes and the users of recreational areas, such as public parks and trails. Noise attenuation measures shall be required for all air-conditioning units. Backup generators shall only be operated during power outages and for testing and maintenance purposes. At any time, noise attenuation measures may be required by the zoning administrator when deemed necessary.

B. Testing and maintenance activities of personal wireless service facilities which generate audible noise shall occur between the hours of 8:00 a.m. and 5:00 p.m., weekdays (Monday through Friday, non-holiday) excluding emergency repairs, unless allowed at other times by the zoning administrator. Testing and maintenance activities which do not generate audible noise may occur at any time, unless otherwise approved by the zoning administrator. (Ord. 1743 § 1, 1998)

18.110.150 Interference.

All personal wireless service facilities shall be operated in a manner which complies with the Federal Communication Commission's regulations regarding signal interference. (Ord. 1743 § 1, 1998)

18.110.160 Maintenance and safety.

A. Personal wireless service facilities shall comply with all Federal Communications Commission and California Public Utilities Commission requirements.

B. All personal wireless service providers shall provide signage, as required by the zoning administrator, which shall identify the name and phone number of the personal wireless service provider for use in case of an emergency.

1. The design, materials, colors, and location of the identification signs shall be subject to zoning administrator review and approval.

2. If at any time a new personal wireless service provider takes over operation of an existing personal wireless service facility, the new personal wireless service provider shall notify the planning division of the change in operation within 30 days and the required and approved signs shall be updated within 30 days to reflect the name and phone number of the new wireless service provider. The colors, materials and design of the updated signs shall match those of the required and approved signs.

C. In addition to providing visual screening, each antenna site may be required to provide warning signs, fencing, anticlimbing devices, or other techniques to achieve the same end to control access to the facilities in order to prevent unauthorized access and vandalism. However, the use of fencing shall not unnecessarily add to the visual impact of the facility, and the design of the fencing and other access control devices shall be subject to zoning administrator review and approval. All signs shall be legible from a distance of at least 10 feet from the personal wireless service facility. No sign shall be greater than two square feet in size.

D. All personal wireless service facilities, including, but not limited to, antennas, towers, equipment cabinets, structures, accessory structures, and signs shall be maintained by the wireless service provider in good condition. This shall include keeping all personal wireless service facilities graffiti-free and maintaining security fences in good condition.

E. All personal wireless service facilities shall be required to be reviewed by an electrical engineer licensed by the state.

1. Within 45 days of initial operation or modification of a personal wireless service facility, the personal wireless service provider shall submit to the planning division a written certification by an electrical engineer licensed by the state that the personal wireless service facility, including the actual radio frequency radiation of the facility, is in compliance with the application submitted, any conditions imposed, and all other provisions of this chapter in order to continue operations past the 45-day period. At the personal wireless service provider's expense, the zoning administrator may employ on behalf of the city an independent technical expert to confirm and periodically reconfirm compliance with the provisions of this chapter.

2. Every personal wireless service facility shall demonstrate continued compliance with all radio frequency standards adopted by the Federal Communications Commission. The personal wireless service provider shall hire a qualified electrical engineer licensed by the state, and approved by the zoning administrator to measure the actual radio frequency radiation of the approved facility and determine if it meets the Federal Communications Commission's standards. A report of all calculations, required measurements, and the engineer's findings with respect to compliance with the radio frequency standards shall be submitted to the planning division within three years of facility approval and every three years thereafter. In the case of a change in the standard, the required report shall be submitted within 90 days of the date the said change becomes effective. In order to assure the objectivity of the analysis, the city may require, at the personal wireless service provider's expense, independent verification of the results of any analysis. If a personal wireless service provider fails to supply the required reports or remains in continued noncompliance with the Federal Communications Commission standard, the zoning administrator shall schedule a public planning commission hearing. After conducting the hearing, if the planning commission determines that the personal wireless service provider has failed to supply the required reports or remains in continued noncompliance, the planning commission shall modify or revoke all approvals.

F. All personal wireless service facilities providing service to the government or general public shall be designed to survive a natural disaster without interruption in operation. To this end the following measures shall be implemented:

1. Nonflammable exterior wall and roof covering shall be used in the construction of all aboveground equipment shelters and cabinets.

2. Openings in all aboveground equipment shelters and cabinets shall be protected against penetration by fire and windblown embers.

3. The material used as supports for the antennas shall be fire resistant, termite proof, and subject to all the requirements of the Uniform Building Code.

4. Personal wireless service facility towers shall be designed to withstand the forces expected during the "maximum credible earthquake." All equipment mounting racks and attached equipment shall be anchored in such a manner that such a quake will not tip them over, throw the equipment off its shelves, or otherwise act to damage it.

5. All connections between various components of the personal wireless service facility and with necessary power and telephone lines shall be protected against damage by fire, flooding, and earthquake.

6. Measures shall be taken to keep personal wireless service facilities in operation in the event of a disaster.

7. All equipment shelters and personal wireless service facility towers shall be reviewed and approved by the fire department.

8. A building permit shall be required for the construction, installation, repair, or alteration of all support structures for personal wireless service facilities equipment. Personal wireless service facilities must be stable and must comply with the Uniform Building Code and any conditions imposed as a condition of issuing a building permit. (Ord. 2000 § 1, 2009; Ord. 1743 § 1, 1998)

18.110.170 Antennas located on an undeveloped parcel.

A. All ground-mounted antennas that are located on undeveloped sites, where allowed, shall be converted to roof- or façade-mounted antennas with the development of the site when feasible and technically possible.

B. All aboveground and partially buried equipment shelters and cabinets that are located on undeveloped sites, where allowed, shall be located where they will be the least visible from surrounding properties and public places. (Ord. 1743 § 1, 1998)

18.110.180 Access roads.

All personal wireless service facilities shall use existing access roads, where available. Unless visual impacts can be adequately mitigated, no new access roads shall be allowed with any proposed personal wireless service facility. (Ord. 1743 § 1, 1998)

18.110.190 Advertising.

No advertising shall be placed on personal wireless service facilities. (Ord. 1743 § 1, 1998)

18.110.200 Federal Aviation Administration.

A. Personal wireless service facilities shall comply with all Federal Aviation Administration requirements.

B. No personal wireless service facility shall be installed in a location where special painting or lighting will be required by the Federal Aviation Administration unless technical evidence acceptable to the zoning administrator is submitted showing that this is the only technically feasible location for this facility, and the proposed facility meets all of the other requirements of this chapter. When lighting is required and is permitted by the Federal Aviation Administration or other federal or state authority, it shall be turned inward so as not to project on surrounding property. (Ord. 1743 § 1, 1998)

18.110.210 Historical and archaeological sites.

No personal wireless service facility shall be sited such that its design and/or construction will damage an archaeological site or have an adverse effect on the historic character of an historic structure, feature, or site. (Ord. 1743 § 1, 1998)

18.110.220 Additional information required.

Each personal wireless service provider with a personal wireless service facility in the city may be required by the zoning administrator, at any time, to provide additional information to the public by means of community meetings and/or distribution of relevant literature. (Ord. 1743 § 1, 1998)

18.110.230 Minor modifications.

Minor modifications to personal wireless service facility equipment design, location, height, and other elements may be allowed, subject to the approval of the zoning administrator, if such modifications are in keeping with the architectural statement and layout design of the original approval, and meet the requirements of this chapter. (Ord. 1743 § 1, 1998)

18.110.240 Cessation of operation on-site.

A. Personal wireless service providers shall provide the city with a notice of intent to vacate a site a minimum of 30 days prior to the vacation.

B. A new permit shall be required if a site is to be used again for the same purpose as permitted under the original permit if a consecutive period of six months have lapsed since cessation of operations.

C. All equipment associated with a personal wireless service facility shall be removed by the property owner after cessation of the said use for more than six consecutive months, and the site shall be restored to its original preconstruction condition. Any access road installed shall also be removed by the property owner and the ground returned to its natural condition after continuous cessation of the said use for more than six months unless the property owner establishes to the satisfaction of the zoning administrator that these sections of road are necessary to serve another use which is permitted or conditionally permitted and has been approved for the property or to provide access to adjoining parcels. An exception to this subsection may be made by the zoning administrator for an extension of up to 12 months if the property owner continues to make a good faith attempt to sell or lease the

property as a personal wireless service facility site, as certified by a licensed real estate broker who is under contract with a right to sell or lease the property.

D. The personal wireless service provider shall be responsible for providing the financial guarantee required in Section 18.110.250(B) of this chapter.

E. Any personal wireless service provider that is buying, leasing, or is considering a transfer of ownership of an already approved facility shall submit a letter of notification of intent to the zoning administrator. (Ord. 1743 § 1, 1998)

18.110.250 Fees.

A. The zoning administrator is authorized at his or her discretion to employ on behalf of the city an independent technical expert to review any technical materials submitted. The zoning administrator shall consult with all interested personal wireless service facility providers to compile a list of independent technical experts from which the zoning administrator shall choose the reviewing technical expert. The personal wireless service provider shall pay all reasonable costs of said review, not including administrative costs.

B. Prior to erecting a personal wireless service facility, the personal wireless service provider shall provide a financial guarantee, satisfactory to the city attorney, for the removal of the facility in the event that its use is abandoned, or its approval is terminated. This subsection shall not apply to personal wireless service facilities approved prior to the effective date hereof. (Ord. 1743 § 1, 1998)

18.110.260 Preexisting and nonconforming personal wireless service facilities.

A. The personal wireless service provider of a personal wireless service facility which was approved by the city before the effective date hereof shall submit a copy of the following to the zoning administrator within six months from the date of notification:

1. A written summary certifying the commencement date and expiration date of any lease, license, property right, or other use agreement for the personal wireless service facility, including any options or renewal terms contained therein.

2. The approval by the city which had been granted for the personal wireless service facility prior to the effective date hereof.

3. A report stating that the facility complies with the emissions standards adopted by the Federal Communications Commission as certified by an electrical engineer licensed by the state.

4. A site plan showing the location of the personal wireless service facility.

B. The personal wireless service provider of a personal wireless service facility which was approved by the city prior to the effective date hereof and does not comply with this chapter on the date of its adoption shall be considered a preexisting legal nonconforming use provided that the personal wireless service provider submits the information required in subsection A of this section.

1. Preexisting legal nonconforming personal wireless service facilities shall be permitted to remain until the lessor's lease, including renewals, with the property expires, or the city council takes action pursuant to subsection F of this section.

2. A nonconforming personal wireless service facility shall not be altered or modified unless approved by the zoning administrator subject to the determination that the alteration or modification will cause the personal wireless service facility to be in greater conformance with this chapter.

C. Personal wireless service facilities, approved prior to the date of the ordinance codified in this chapter, which comply with the provisions of this chapter shall be subject to the regulations in this chapter including Section 18.110.270 of this chapter except that the lack of a five-year review period shall not make a preexisting personal wireless service facility, as described in subsection A of this section, a preexisting nonconforming use.

D. Within eight months from the effective date hereof, the zoning administrator shall review the approval for all personal wireless service facilities approved prior to the effective date hereof to determine if they are conforming or nonconforming uses.

E. Any personal wireless service facility approved by the city prior to the effective date hereof shall cease operations within six months of the enactment of the ordinance codified in this chapter and shall be immediately removed, unless the personal wireless service facility submits the materials required in subsection A of this section.

F. The zoning administrator shall determine which nonconforming uses, including preexisting nonconforming uses as defined in subsection B of this section, are to be submitted to the city council for review. The zoning administrator shall base his or her decision on substantial evidence that the nonconforming use is a threat to the public health, safety and general welfare, and/or materially injurious to the properties or improvements in the vicinity. The city council shall then hold a noticed public hearing.

The personal wireless service provider shall be provided written notice, not less than 30 days prior to the hearing, including, with reasonable specificity: (1) the nature of the threat and/or material injury and copies of all of the evidence and materials upon which the zoning administrator based his or her determination, (2) a reasonably ascertainable means to correct the threat and/or material injury, if possible, and (3) a reasonable opportunity to cure the same, if curable, which time period in no event shall be less than 30 days from the date of notification or such lesser time period as may be warranted by virtue of a public emergency.

At the hearing, the city council shall accept evidence from the personal wireless service provider, the public, and any other interested persons in determining whether substantial evidence supports the finding that the nonconforming use is a threat to the public health, safety and general welfare, and/or materially injurious to the properties or improvements in the vicinity; and if the city council so determines, it shall also determine whether to:

1. Require modifications of such personal wireless service facility to eliminate the threat to the public health, safety and general welfare, and/or the material injury to the properties or improvements in the vicinity;

2. Immediately eliminate such personal wireless service facility by paying the provider just compensation pursuant to the procedures set forth in the Eminent Domain Law, California Code of Civil Procedure, Section 1230.010 et seq.; or

3. Subject such nonconforming use and/or structure to the provisions of Chapter 18.120 of this title, including Table 18.120.060 of this title.

G. If the city and the provider voluntarily agree on just compensation to remove the nonconforming facility pursuant to subsection (F)(2) of this section, the city and the provider shall thereafter enter into an agreement for just compensation and the removal of the facility. If the parties cannot voluntarily agree, then the determination of just compensation and the removal of the facility shall be determined under the applicable law.

H. The remedies for the removal of nonconforming uses set forth in this section are not exclusive. city retains the right to use any and all other means legally available to remove a nonconforming facility. (Ord. 1743 § 1, 1998)

18.110.270 Length of approvals.

A. All approvals for personal wireless service facilities shall be valid for an initial maximum period of five years. An approval may be extended administratively from the initial approval date for a subsequent five years and may be extended administratively every five years thereafter upon the verification of the personal wireless service provider's continued compliance with the findings and conditions of approval under which the application was originally approved. Costs associated with the review process shall be borne by the personal wireless service provider. The zoning administrator may schedule a public hearing at which the zoning administrator may deny the renewal of an approval if he or she finds that:

1. The report showing that the personal wireless service facility complies with the current Federal Communications Commission radio frequency standards, as required in subsection 18.110.160(E)(2) of this chapter, has not been submitted to the planning division.

2. The personal wireless service facility fails to comply with the requirements of this chapter as they exist at the time of renewal, and the personal wireless service provider has failed to supply assurances acceptable to the zoning administrator that the facility will be brought into compliance within 90 days.
3. The personal wireless service provider has failed to comply with the conditions of approval imposed.
4. The personal wireless service facility has not been properly maintained.
5. The personal wireless service provider has not agreed in writing to upgrade the personal wireless service facility within six months to minimize the facility's adverse visual impact to the greatest extent permitted by the technology that exists at the time of renewal. The zoning administrator shall determine if a new technology shall further minimize a facility's adverse visual impact and if a facility shall be required to be upgraded. A personal wireless service facility shall not be upgraded unless it shall continue to comply with the requirements of this chapter as they exist at the time of renewal.

Notwithstanding the foregoing, no public hearing to schedule a denial of an extension pursuant to this section shall be calendared until the zoning administrator has first provided a written notice to the personal wireless service provider including with reasonable specificity: (a) the nature of the deficiency or violation; (b) a reasonably ascertainable means to correct such deficiency or violation; and (c) a reasonable opportunity to cure the same if the deficiency or violation is curable, which time period in no event shall be less than 30 days from the date of notification or such lesser period as may be warranted by virtue of a public emergency.

B. If an approved personal wireless service facility meets the requirements of this chapter but it is no longer allowed in its applicable zoning district, the personal wireless service facility shall be permitted to remain for five years from the date of the facility's next approval renewal, or until such time as the lessor's lease, including renewals, with the property expires, or the city council takes action pursuant to Section 18.110.260(F) of this chapter.

A nonconforming personal wireless service facility shall not be altered or modified unless approved by the zoning administrator subject to a determination that the alteration or modification will cause the personal wireless service facility to be in greater conformance with this chapter.

C. The zoning administrator's decision to deny a renewal may be appealed as described in Section 18.144.050 of this title.

D. At the zoning administrator's request, the personal wireless service provider shall provide a written summary certifying the commencement date and expiration date of any lease, license, property right, or other use agreement for the personal wireless service facility, including any options or renewal terms contained therein.

E. An approval for a personal wireless service facility may be modified or revoked by the planning commission as described in Section 18.110.030 of this chapter.

F. This section does not apply to preexisting legal nonconforming uses. (Ord. 2000 § 1, 2009; Ord. 1743 § 1, 1998)

18.110.280 Change in federal or state regulations.

All personal wireless service facilities shall meet the current standards and regulations of the Federal Communications Commission, the California Public Utilities Commission, and any other agency of the federal or state government with the authority to regulate personal wireless service providers. If such standards and regulations are changed, the personal wireless service provider shall bring its facilities into compliance with such revised standards and regulations within 90 days of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal or state agency. Failure to bring personal wireless service facilities into compliance with such revised standards and regulations shall constitute grounds for the immediate removal of such facilities at the personal wireless service provider's expense. (Ord. 1743 § 1, 1998)

18.110.290 Indemnity and liability.

A. The personal wireless service provider shall defend, indemnify and hold harmless the city or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the city, its boards, commissions, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project, unless such claim, action, or proceeding is based on the city's negligence or misconduct, when such claim or action is

brought within the time period provided for in applicable state and local statutes. The city shall promptly notify the providers of any such claim, action or proceeding. Nothing contained in this subsection shall prohibit the city from participating in a defense of any claim, action, or proceeding if the city bears its own attorney fees and costs, and the city defends the action in good faith.

B. Personal wireless service providers shall be strictly liable for any and all sudden and accidental pollution and gradual pollution from the usage of their personal wireless service facilities within the city. This liability shall include cleanup, injury or damage to persons or property. Additionally, personal wireless service providers shall be responsible for any sanctions, fines, or other monetary costs imposed as a result of the release of pollutants from their operations.

C. Personal wireless service providers shall be strictly liable for any and all damages resulting from electromagnetic waves or radio frequency emissions in excess of the Federal Communication Commission's standards. (Ord. 1743 § 1, 1998)

18.110.300 Review of ordinance.

A. Personal wireless service facilities are currently subject to rapid change. Innovations may render the need for specific sections of this chapter obsolete. The city shall review the ordinance codified in this chapter at least once every five years from the date of adoption.

B. Whenever a personal wireless service facility provider applies to locate a significantly different type of technology in the city, the city shall review the ordinance codified in this chapter for its applicability prior to the approval of the placement and/or design of the new technology.

C. The city shall review the ordinance codified in this chapter within six months of a change to the Federal Communication Commission's regulations which states that local governments may regulate personal wireless service facilities based on their health effects. (Ord. 1743 § 1, 1998)

18.110.310 Severability.

If any section or portion of this chapter is found to be invalid by a court of competent jurisdiction, such finding shall not affect the validity of the remainder of the chapter, which shall continue in full force and effect. (Ord. 1743 § 1, 1998)

Chapter 18.112

SATELLITE EARTH STATION DEVELOPMENT STANDARDS

Sections:

18.112.010 Residential district standards.

No exterior satellite earth station having a dimension greater than 24 inches shall be allowed in any residential district unless it complies with the requirements of this section. For the purposes of this section, a "satellite earth station" means a parabolic dish antenna designed for the transmission and/or receiving of signals from a satellite and used for enhanced radio, television reception and/or telecommunications uses.

A. No satellite earth station shall be located on, attached to, or in any manner supported above any roof of any structure.

B. No satellite earth station shall be located in any street, alleyway, front yard or in the area between the front yard and the front of the structure.

C. No satellite earth station shall be located in any side yard on the street side of a corner lot unless the antenna is totally screened from view from such street.

D. The maximum height to the highest point of the installed satellite earth station shall be 10 feet.

E. Any satellite earth station which has a maximum height taller than the top of any fence separating the property on which the earth station is proposed and adjacent properties shall maintain a minimum setback of five feet from such property line, if such satellite earth station is screened from such adjacent properties. The focusing side of a satellite earth station, if required to be unscreened, shall maintain a minimum setback of 15 feet from any property line it faces.

F. Screening, in a form acceptable to the director, shall be installed to screen along the sides and rear of the satellite earth station that are visible to the adjacent properties or public roadways. Screening shall be designed to achieve a height equal to the maximum height of the satellite earth station.

G. Satellite earth stations shall be earth-tone colors satisfactory to the director, unless such satellite earth station is completely screened from adjoining properties and city rights-of-way. (Ord. 1220 § 2, 1985; prior code § 2-5.59(a))

18.112.020 Nonresidential district standards.

No exterior satellite earth station or microwave dish having a dimension greater than two feet in diameter shall be allowed in any nonresidential district unless it complies with the requirements of this section. For the purposes of this section, "satellite earth station" means a parabolic dish antenna designed for the transmission and/or receiving of signals from a satellite and used for enhanced radio, television reception and/or telecommunication uses; "microwave dish" means a parabolic dish or open antenna designed for the transmission and/or receiving of microwave signals for enhanced telecommunication uses.

A. Design review approval per Chapter 18.20 of this title is required for any proposed satellite earth station or microwave dish greater than two feet in diameter.

B. All satellite earth stations and microwave dish antennas shall be located on the roof of a structure whenever possible, provided the antenna or dish is not visible from public roadways or can be adequately screened from view of a public roadway. All satellite earth stations and microwave dish antennas that cannot be installed on the roof in a manner that is not visible to a public roadway shall be located directly adjacent to an existing building, whenever possible.

C. Any satellite earth station or microwave dish proposal that is visible from any public roadway or other public place shall include a written statement explaining the exact need of the satellite earth station or microwave dish. This statement shall include details of the efforts made to utilize the capabilities of alternative service providers (cable company, teleports, etc.) prior to the submittal of an application.

D. Ground-mounted dishes shall be located to the rear of the building or facing the interior of the respective business park whenever possible in order to be completely hidden from view from the front of the building or public roadways.

E. No satellite earth station or microwave dish shall result in the elimination of any existing or approved off-street parking space unless the remaining off-street parking satisfied the off-street parking requirements of this code, or, in the event no standard applies, the community development director determines that there remains a sufficient amount of off-street parking at the subject property.

F. Ground-mounted dishes and antennas shall be adequately screened (on three sides) utilizing on- and/or off-site vegetation or other approved screening mechanism.

G. The maximum height of the satellite earth station or microwave antenna shall not exceed 17 feet measured from its base to its highest point. (Ord. 2000 § 1, 2009; Ord. 1600 § 3, 1993; Ord. 1520 § 4, 1991; Ord. 1220 § 2, 1985; prior code § 2-5.50(b))

18.112.030 Building permit required.

No satellite earth station shall be erected or otherwise installed unless a permit for such installation has first been applied for and approved by the building division, if such permit is deemed necessary by the chief building official. (Ord. 2000 § 1, 2009; Ord. 1220 § 2, 1985; prior code § 2-5.50(c))

J. "Viewing area" means an area in any adult book and/or novelty store, cabaret, theater, motion picture arcade, or other adult entertainment establishment, where a patron or customer would ordinarily be positioned for purposes of viewing or watching a performance, picture, show, or film. (Ord. 1603 § 1, 1993)

18.114.030 Prohibition.

A. No person shall cause or permit the establishment, enlargement or transfer of ownership or control of any adult entertainment establishment if such establishment is within 500 feet of another such business, 500 feet of any residential zone or residential use, or within 500 feet (of any church, school, or public park within the city, or within 500 feet of an establishment selling and serving alcohol. For purposes of this section, a hotel/motel shall not be considered as a residential use.

B. An adult entertainment establishment shall not be permitted to be established, enlarged or transferred unless the provisions of the zone in which the site or proposed site is located permits such a use.

C. For purposes of this section, enlargement shall mean an increase in the size of the building within which the business is conducted by either construction or use of an adjacent building or any portion thereof whether located on the same or an adjacent lot or parcel of land. (Ord. 1603 § 1, 1993)

18.114.040 Measure of distance.

The distance between any two adult entertainment establishments shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each establishment. The distance between any adult entertainment establishment and any church, school, public park, establishment selling and serving alcohol or residential zone or use, shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the adult entertainment establishment to the closest property line of the church, school, public park, or residential zone or residential use, or establishment selling and serving alcohol. (Ord. 1603 § 1, 1993)

18.114.050 Zoning districts—Permitted.

An adult entertainment establishment shall be permitted only in the commercial zones listed in Table 18.44.090 of Chapter 18.44. (Ord. 1603 § 1, 1993)

18.114.060 Adult entertainment establishment permit required.

A. Prior to commencing any work pertaining to the development, construction, reconstruction, relocation, conversion, alteration, expansion, or establishment of any adult entertainment establishment, the applicant shall submit to the city planning division an application for an adult entertainment establishment permit on a form approved by the planning division and a site plan. A fee therefor shall be paid pursuant to Section 18.114.070 of this chapter. The application and site plan are required for purposes of verification that the request complies with the design and performance standards, and is in conformity with the locational criteria, set forth in this chapter.

B. The applicant shall also submit to the police chief an application for an adult entertainment establishment permit. Said application shall be in writing on a form prescribed by the police chief and shall be signed by the applicant. The application shall set forth the exact nature of the activities proposed to be conducted, the proposed place of business and facilities therefor, and the name and address of each applicant. The chief of police may require the applicant to allow fingerprints to be taken for the purpose of establishing identification. Any applicant shall furnish the following information:

1. The previous addresses of each applicant, if any, for a period of three years immediately prior to the date of the application and the dates of residence of each.
2. Written proof that the applicant is at least 18 years of age.
3. The applicant shall allow the police department official who processes the application to take photographs of the applicant.
4. Applicant's height, weight, color of eyes and hair.

5. Business, occupation or employment history of the applicant for the three years immediately preceding the date of the application.

6. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation, together with the names and residence addresses of each of its officers, directors, and each stockholder holding more than five percent of the stock of the corporation along with the amount of stock held, and the name and address of the person or agent to accept service of a summons and complaint. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply.

7. The names and residence addresses of all persons currently employed or intended to be employed in the adult entertainment establishment, regardless of the nature of employment, along with the proposed or actual nature of the work performed or to be performed and recent passport-size photographs of each employee, suitable to the police department official processing the application. The chief of police may require each such employee to allow fingerprints to be taken for the purpose of identification. Any applicant or permittee shall notify the city in writing of the names and addresses and shall supply such photographs of any new employees within five days of such employment. Such new employees shall allow fingerprints to be taken for identification purposes.

8. Such other information as may be deemed necessary by the chief of police.

C. Within 60 days following receipt of a completed application, the chief of police shall either issue the permit or mail to the applicant a written statement of the reasons for denial thereof. The police chief shall issue an adult entertainment establishment permit to any person whose application complies with the requirements of this chapter, unless grounds for denial of such permit are found to exist. Grounds for denial include:

1. The applicant made a material misstatement in the application for a permit.

2. The applicant has, within five years immediately preceding the date of the filing of the application, been convicted in a court of competent jurisdiction of an offense involving conduct which requires registration under California Penal Code Sections 243.4, 290, or any violation of Sections 311 through 311.7, 313.1, 314, 315, 316, 318 or 647(b), 647(d), or 647(h) of the California Penal Code, or of any offense involving theft of property or violence. The basis for denial stated in this subsection (C)(2) shall not apply to adult theaters, adult bookstores, or adult video stores. Prior to denying a permit under this chapter for either of said activities by reason of such conviction, the chief of police shall make a finding that by reason of the nature of the conviction or underlying facts, or by reason of the anticipated nature of the activities to be carried out under the permit applied for, or by reason of any other relevant factors, the issuance of such permit would be inconsistent with the general health, safety and welfare.

3. That the operation of an adult entertainment establishment, as proposed by the applicant, if permitted, would not comply with all applicable laws including, but not limited to, all city ordinances and regulations.

4. That the applicant has violated any provision of this chapter; or of any similar ordinance, law, rule or regulation of another public agency which regulates the operation of adult entertainment establishments.

D. It is unlawful for any person to engage in, conduct, or carry on, in or upon any premises within the city the operation of an adult entertainment establishment without an adult entertainment establishment permit.

E. An adult entertainment establishment permit shall not be transferrable and a new permit must be obtained if the adult entertainment establishment is leased, subleased, sold, or otherwise transferred for any reason, as the term "transfer of interest" is defined in Section 18.114.140 of this chapter. (Ord. 2000 § 1, 2009; Ord. 1603 § 1, 1993)

18.114.070 Adult entertainment establishment permit application fee.

Any application for a permit to operate an adult entertainment establishment shall be accompanied by a nonrefundable fee as set forth in the city master fee schedule (on file in the office of the city clerk). The application fee shall be used to defray, in part, administrative costs incurred in the processing of such application, and is not made in-lieu of

any other fees or taxes required under this code. A permit to operate an adult entertainment establishment shall be renewed annually. (Ord. 1603 § 1, 1993)

18.114.080 Adult entertainment facilities and operation requirements.

All adult entertainment establishments shall comply with the following facilities, design, performance, and operations requirements:

A. Such establishments shall comply with all site development standards, including parking, of the zone in which an adult entertainment establishment is located and all codes, including Building and Fire Codes.

B. Adult entertainment establishments shall close and remain closed from 11:00 p.m. to 10:00 a.m.

C. Signs, advertisements, displays, or other promotional materials depicting or describing "specified anatomical areas" or "specified sexual activities" or displaying instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities" shall not be shown or exhibited so as to be discernible by the public beyond the walls of the building or portion thereof in which the adult entertainment establishment is conducted.

D. Each adult entertainment establishment shall have a business entrance separate from any other nonadult business located in the same building, except in the C-R(M) zoning district.

E. All building openings, entries, and windows for an adult entertainment establishment shall be located, covered or screened in such a manner as to prevent a view into the interior of an adult entertainment establishment from any area open to the general public.

F. No adult entertainment establishment shall be operated in any manner that permits the observation by the public of any material depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" from any public way or from any location beyond the walls of the building or portion thereof in which the adult entertainment establishment is conducted.

G. The building entrance to the adult entertainment establishment shall be clearly and legibly posted with a notice indicating that minors are precluded from entering the premises.

H. No loudspeakers or sound equipment shall be used by adult entertainment establishment for the amplification of sound to a level discernible by the public beyond the walls of the building or portion thereof in which the adult entertainment establishment is conducted.

I. Each adult entertainment establishment shall be provided with a manager's station for the purpose of supervising activities within the business. A manager shall be on duty on the premises during all times that the adult entertainment establishment is open to the public.

J. Any viewing area, as defined in this chapter, shall be visible from the manager's station of the adult entertainment establishment, and visibility of the entire viewing area from the manager's station shall be neither obscured nor obstructed by any merchandise, curtain, door, wall, or other structure.

K. All exterior areas of adult entertainment establishment, including buildings, landscaping, and parking areas, shall be maintained in a clean and orderly manner free of trash, weeds, and debris.

L. The maximum occupancy load, fire exits, fire lanes, and fire suppression equipment shall be regulated, designed, and provided in accordance with the Uniform Fire Code and Uniform Building Code.

M. An on-site security program shall be prepared and implemented including the following items:

1. All off-street parking areas and building entries serving the adult entertainment establishment shall be illuminated during all hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot-candle of light on the parking surface and/or walkway. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the adult entertainment establishment for the personal safety of patrons and employees and to reduce the incidence of vandalism and theft. The lighting shall be shown on the required plot plan and shall be subject to review for compliance through the design review process by the community development director and police chief.

2. All interior portions of the adult entertainment establishment, except those areas devoted to motion pictures, shall be illuminated during all hours of operation with a lighting system which provides a minimum maintained horizontal illumination of not less than two foot-candles of light.

3. For adult entertainment establishments which exceed an occupant load of 125 persons, the provision of on-site security personnel shall be required during all business hours. Security personnel shall be licensed in accordance with the California Business and Professions Code, to the satisfaction of the police chief. (Ord. 2000 § 1, 2009; Ord. 1603 § 1, 1993)

18.114.090 Adult motion picture theaters.

An adult motion picture theater shall comply with all the conditions stated in Section 18.114.080 and the following requirements:

A. A manager's station shall be located near the main entrance and the station shall be provided with an unobstructed view of all motion picture viewing areas.

B. No adult motion picture theater shall be maintained or operated unless the complete interior of the adult motion picture theater is visible upon entrance to such adult motion picture theater.

C. Maximum number of devices. No person shall operate an adult motion picture theater in which the number of image producing devices exceeds the maximum occupancy load permitted in any room or partitioned portion of a room in which an image producing device is located. (Ord. 1603 § 1, 1993)

18.114.100 Viewing booths.

A permittee who operates or causes to be operated an adult entertainment establishment and regardless of whether or not an adult entertainment establishment permit has been issued to said business under this chapter, and which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

A. Upon application for an adult entertainment establishment permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, the location of all overhead lighting fixtures, and designating any portion of the premises in which patrons shall not be permitted. A manager's station(s) shall not exceed 32 square feet of floor area.

B. No alteration in the configuration or location of a manager's station shall be made without the prior written approval of the city zoning administrator.

C. It is the duty of the permittee to ensure that at least one employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.

D. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms shall not contain video viewing equipment. If the premises has two or more manager's stations designed, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection shall be by direct line of sight from the manager's station.

E. It shall be the duty of the permittee and any employees present on the premises to ensure that the view area specified in subsection D of this section remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designed as an area in which patrons shall not be permitted in the application filed pursuant to this chapter.

F. No viewing booth shall be occupied by more than one person at any one time.

G. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access with an illumination of not less than two foot-candles as measured at the floor

within public easements, where such placement endangers the safety of persons or property, or unreasonably interferes with or impedes the flow of traffic or the ingress or egress from any residence or business. These signs may be displayed no longer than the permitted hours of operation of the home boutique they are advertising;

3. A maximum of eight hours of operation in a single day, with the specific hours as proposed by the boutique operators and as proposed in notices to surrounding property owners;

4. Requiring all boutique members to have a city business license.

G. The planning commission may elect to review a decision of the zoning administrator as described in Section 18.144.020 of this title, or a decision of the zoning administrator may be appealed to the planning commission by the applicant or by any other person described in Section 18.144.020 of this title. An appeal shall be heard and acted upon as described in Sections 18.144.030 and 18.144.040 of this title. (Ord. 1434 § 1, 1989)

18.116.020 Temporary uses in C district.

A. A temporary use in an existing structure may be permitted in a C district, for not to exceed one year where it appears by specific finding made by the planning commission that:

1. The temporary use is proposed only pending application for rezoning to accommodate a permitted or conditionally permitted use. The permit may be conditioned upon the filing of such application;

2. The temporary use, even though not permitted or conditionally permitted, is not so inconsistent with the regulations for the district in which it is located as to constitute a traffic hazard or parking problem, or to create noise, odor, or other conditions offensive to the senses, or to be inconsistent with the adjoining land uses.

B. The permit may be revocable or granted subject to such conditions as the commission may prescribe. Conditions may include, but shall not be limited to, requiring that no structural alterations be made to the structure in order to accommodate the temporary use; requiring street dedications and improvements; requiring any or all of the conditions specifically allowed in Chapter 18.124 or 18.132 of this title.

C. The city council may elect to review a decision of the planning commission as described in Section 18.144.010 of this title, or a decision of the commission may be appealed to the city council by the applicant or by any other person as prescribed in Section 18.144.020 of this title. An appeal shall be heard and acted upon as described in Sections 18.144.030 and 18.144.040 of this title. (Prior code § 2-10.23)

18.116.030 Fairground parking.

Upon the granting of a temporary use permit in accord with the provisions described in this section, a fee parking lot may be operated on any property within the city for the purpose of providing parking for activities occurring at the Alameda County fairgrounds.

A. Procedure. The community development director, or his or her designated representative, shall prepare a permit procedure for such temporary uses. Fees for the processing of applications shall be established in the resolution establishing fees and charges for various municipal services, as set forth in the master fee schedule (on file in the office of the city clerk).

B. Conditions. No permit shall be granted unless the operation of the fee parking lot will not be detrimental to the public health, safety and general welfare. Conditions may be attached to permit approval as necessary to protect the public health, safety and general welfare.

C. Revocation of Permit. Upon operation of a fee parking lot in a manner detrimental to the public health, safety and general welfare or, if granted subject to conditions, upon failure to comply with those conditions, the temporary use permit may be revoked. While the permit is revoked, no additional vehicles shall be parked on the site. The temporary use permit may be reinstated following reapplication with the city.

D. Violation. No person shall operate a fee parking lot, and no person shall allow property owned or occupied by them to be operated as a fee parking lot without a temporary use permit being in full force and effect; nor shall

any fee parking lot be operated in violation of its conditions of approval. Violations of this section shall be deemed infractions. The city, at its election, may revoke the permit, cite the violator for an infraction, or both revoke the permit and cite the violator for an infraction.

E. Exemption. Fee parking lots operated by the Alameda County fair or any other governmental body shall be exempt from the provisions of this section. (Ord. 2000 § 1, 2009; prior code § 2-10.24)

18.116.040 Temporary outdoor uses.

The following temporary outdoor uses shall be permitted subject to the zoning administrator making a determination that a temporary use application for an outdoor event meets the criteria listed for that event; any application not meeting the criteria shall be subject to a conditional use permit in accordance with the provisions of Section 18.124.170 of this title relating to temporary use permits; however, no conditional use permit for an outdoor sale shall be approved if it is longer than three days, no conditional use permit for an outdoor sale during a hotel convention shall be allowed if it is longer than five days, no conditional use permit for an outdoor sale shall be allowed for more than four events per year, except that outdoor sales events benefiting charitable or nonprofit organizations shall not count toward the four event limit and shall not be limited in number.

A. Private Outdoor Company Events. Company employee events held outdoors on a work site for which the applicant has obtained approval from the fire and police departments and which meet the following criteria shall be permitted in C and I districts, and in PUD districts with an underlying retail/highway/service commercial business and professional offices or business park general plan designation.

1. Event activities, including event setup and take down, shall be limited to the hours between 7:00 a.m. and 8:00 p.m.
2. The zoning administrator has approved a decorating plan for any signs or decorations proposed for the event. Decorations and attention getting devices such as flags, pennants, banners, and other temporary signs and devices shall be allowed as deemed appropriate by the zoning administrator.
3. The event meets the requirements of the police and fire departments as to alcohol use, security, safety, noise, fire hazards, emergency access, vehicular and pedestrian ingress and egress; the event meets all applicable requirements of the building and fire codes; and the applicant has obtained all necessary permits.
4. The event is not open to the general public.
5. The property owner has approved the event in writing.

B. Outdoor Sales. Temporary outdoor displays and/or sales of merchandise or services on a business site for which the applicant has obtained approval from the fire and police departments and which meet the following criteria shall be permitted.

1. Outdoor display and/or sale of merchandise may be done as part of a business district or shopping center event, as an event to benefit charitable or nonprofit organizations, or on an individual business basis.
2. Temporary outdoor sales shall not last longer than three days.
3. No more than four events per year featuring outdoor sales shall be held by any individual business district, individual business, or shopping center, except that outdoor sales events benefiting charitable or nonprofit organizations shall not count toward the four event limit and shall not be limited in number.
4. Outdoor sales activities, including setup and take down, shall be limited to the hours between 7:00 a.m. and 8:00 p.m. The time frame of events may be extended to the normal closing time of a business if the zoning administrator determines there will not be a detrimental effect upon adjacent properties.
5. Except for charitable events, temporary outdoor displays and/or sales shall be associated with a business on the site.
6. The zoning administrator has determined that the merchandise will be attractively displayed in an organized manner and has approved a decorating/sign plan for any signs or decorations proposed for the event. Allowable decorations and attention getting devices are restricted to flags, pennants, banners, and other temporary signs and devices as deemed appropriate by the zoning administrator.

Chapter 18.120

NONCONFORMING USES

Sections:

18.120.010 Purpose.

This chapter is intended to limit the number and extent of nonconforming uses by prohibiting their enlargement, their reestablishment after abandonment, and the alteration or restoration after destruction of the structures they occupy. While permitting the use and maintenance of nonconforming structures and signs, this chapter is intended to limit the number and extent of nonconforming structures and certain nonconforming signs by prohibiting their being moved, altered or enlarged in a manner that would increase the discrepancy between existing conditions and the standards prescribed in this chapter and by prohibiting their restoration after destruction. Eventually, certain classes of nonconforming uses, nonconforming structures of nominal value, and certain nonconforming signs are to be eliminated or altered to conform. (Prior code § 2-10.32)

18.120.020 Continuation and maintenance.

A. A use, lawfully occupying a structure or a site on the effective date of the ordinance codified in this chapter, or of amendments thereto, that does not conform with the use regulations or the site area per dwelling unit regulations for the district in which the use is located shall be deemed to be a nonconforming use and may be continued, except as otherwise provided in this chapter.

B. A structure, lawfully occupying a site on the effective date of the ordinance codified in this chapter, or of amendments thereto, that does not conform with the standards for front yard, side yards, rear yard, height, or basic floor area of structures, distances between structures, courts, or usable open space for the district in which the structure is located shall be deemed to be a nonconforming structure and may be used and maintained, except as otherwise provided in this chapter.

C. A sign, outdoor advertising structure, or display of any character, lawfully occupying a site on the effective date of the ordinance codified in this chapter, or of amendments thereto, that does not conform with the standards for subject matter, location, size, lighting, or movement prescribed for signs, outdoor advertising structures, and displays for the district in which it is located shall be deemed to be a nonconforming sign and may be displayed and maintained, except as otherwise provided in this chapter.

D. Routine maintenance and repairs may be performed on a structure or site the use of which is nonconforming, on a nonconforming structure, and on a nonconforming sign. (Prior code § 2-10.33)

18.120.030 Alteration and addition.

A. No structures, the use of which is nonconforming, and no nonconforming sign, shall be moved, altered or enlarged unless required by law, or unless the moving, alteration or enlargement will result in the elimination of the nonconformity, except that a structure housing a nonconforming residential use in an A, R, O or C district may be altered or enlarged, provided that the number of dwelling units is not increased.

B. No structure partially occupied by a nonconforming use shall be moved, altered or enlarged in such a way as to permit the enlargement of the space occupied by the nonconforming use, except as permitted in this section.

C. No nonconforming use shall be enlarged or extended in such a way as to occupy any part of the structure or site or another structure or site which it did not occupy on the effective date of the ordinance codified in this chapter, or of the amendments thereto that caused it to become a nonconforming use, or in such a way as to displace any conforming use occupying a structure or site, except as permitted in this section.

D. No nonconforming structure shall be altered or reconstructed so as to increase the discrepancy between existing conditions and the standards for front yard, side yards, rear yard, height of structures, distances between structures, courts, or usable open space prescribed in the regulations for the district in which the structure is located. No nonconforming structure shall be moved or enlarged unless the new location or enlargement shall conform to the standards for front yard, side yards, rear yard, height of structures, basic floor area, distances between structures, courts, or usable open space prescribed in the regulations for the district in which the structure is located.

E. The nonconforming use of a structure or site shall not be changed to another nonconforming use.

F. No use which fails to meet the required conditions for the district in which it is located by reason of noise, emissions, odor, vibration, heat, cold, glare, electrical disturbance, radiation, insect nuisance, or waste disposal, shall be enlarged or extended or shall have equipment that results in failure to meet required conditions replaced unless the enlargement, extension or replacement will result in elimination of nonconformity with required conditions. (Prior code § 2-10.34)

18.120.040 Abandonment of nonconforming use.

Whenever a nonconforming use has been abandoned, discontinued, or changed to a conforming use for a continuous period of 90 days or more, the nonconforming use shall not be reestablished, and the use of the structure or site thereafter shall be in conformity with the regulations for the district in which it is located; provided, that this section shall not apply to nonconforming dwelling units. Abandonment or discontinuance shall include cessation of a use regardless of intent to resume the use. (Prior code § 2-10.35)

18.120.050 Restoration of damaged structure or sign.

A. Whenever a structure or sign which does not comply with the standards for front yard, side yards, rear yard, height of structures, distances between structures, courts, or usable open space prescribed in the regulations for the district in which the structure is located, or in the case of signs, with any of the requirements of Chapter 18.96 of this title, or the use of which does not conform with the regulations for the district in which it is located, is destroyed by fire or other calamity, by act of God, or by the public enemy to the extent of 50 percent or less, the structure may be restored and the nonconforming use may be resumed, provided that restoration is started within one year and diligently pursued to completion.

B. Whenever a structure which does not comply with the standards for front yard, side yards, rear yard, height of structures, distances between structures, courts, or usable open space prescribed in any regulations for the district in which it is located, or the use of which does not conform with the regulations for the district in which it is located, is destroyed by fire or other calamity, by act of God, or by the public enemy to an extent greater than 50 percent, or is voluntarily razed or is required by law to be razed, the structure shall not be restored except in full conformity with the regulations for the district in which it is located, and the nonconforming use shall not be resumed.

C. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the community development director. (Ord. 2000 § 1, 2009; prior code § 2-10.36)

18.120.060 Elimination of nonconforming use, structure or sign.

Nonconforming uses, structures and signs listed in Table 18.120.060 shall be discontinued and removed from their sites, altered to conform, or altered as prescribed to decrease the degree of nonconformity, within the specified time after they become nonconforming.

18.124.060 Action of planning commission.

Within 40 days following the closing of a public hearing on a use permit application, the city planning commission shall act on the application. The commission may grant by resolution an application for a use permit as the use permit was applied for or in modified form, or the application may be denied. A use permit may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the commission may prescribe. Conditions may include, but shall not be limited to, requiring special yards, open spaces, buffers, fences, and walls; requiring installation and maintenance of landscaping; requiring street dedications and improvements; regulation of points of vehicular ingress and egress; regulation of traffic circulation; regulation of signs; regulation of hours of operation and methods of operation; control of potential nuisances; prescribing standards for maintenance of buildings and grounds; and prescription of development schedules. A use permit may not grant variances to the regulations prescribed by this chapter for fences, walls, hedges, screening, and landscaping; site area, width, frontage, and depth; front, rear, and side yards; basic floor area; height of structures; distances between structures; courts, usable open space; signs; or off-street parking facilities and off-street loading facilities, for which variance procedures are prescribed by Chapter 18.132 of this title. (Prior code § 2-11.07)

18.124.070 Findings.

The city planning commission shall make the following findings before granting a use permit:

A. That the proposed location of the conditional use is in accordance with the objectives of this chapter and the purposes of the district in which the site is located:

B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to the properties or improvements in the vicinity;

C. That the proposed conditional use will comply with each of the applicable provisions of this chapter. (Prior code § 2-11.08)

18.124.080 Effective date of use permit.

Within 10 days following the date of a decision of the planning commission on a use permit application, the secretary shall transmit written notice of the decision to the city council and to the applicant. A use permit shall become effective 15 days following the date on which the use permit was granted or on the day following the next meeting of the council, whichever is later, unless an appeal has been taken to the council, or unless the council shall elect to review the decision of the commission. A use permit shall become effective immediately after it is granted by the council. (Prior code § 2-11.09)

18.124.090 Review or appeal.

The city council may elect to review a decision of the planning commission as prescribed in Section 18.144.010 of this title, or a decision of the commission may be appealed to the city council by the applicant or by any other person as prescribed in Section 18.144.020 of this title. An appeal shall be heard and acted upon as prescribed in Sections 18.144.030 and 18.144.040 of this title. (Prior code § 2-11.10)

18.124.100 Lapse of use permit.

A use permit shall lapse and shall become void one year following the date on which the use permit became effective, unless prior to the expiration of one year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application, or a certificate of occupancy is issued for the structure which was the subject of the use permit application, or the site is occupied if no building permit or certificate of occupancy is required, or the applicant or his or her successor has filed a request for extension with the zoning administrator pursuant to the provisions of Section 18.12.030. (Prior code § 2-11.11)

18.124.110 Preexisting conditional uses.

A. A conditional use legally established prior to the effective date of the ordinance codified in this chapter, or subsequent amendments thereto, shall be permitted to continue, provided that it is operated and maintained in accord with the conditions prescribed at the time of its establishment, if any.

B. Alteration or expansion of a preexisting conditional use shall be permitted only upon the granting of a use permit as prescribed in this chapter, provided that alterations not exceeding $1,500.00 in value as determined by the building inspector shall be permitted without the granting of a use permit.

C. A use permit shall be required for the reconstruction of a structure housing a preexisting conditional use if the structure is destroyed by fire or other calamity, by act of God, or by the public enemy to a greater extent than 50 percent. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the community development director. (Ord. 2000 § 1, 2009; prior code § 2-11.12)

18.124.120 Modification of conditional use.

Sections 18.124.020 through 18.124.090 of this chapter shall apply to an application for modification, expansion, or other change in a conditional use, provided that minor revisions or modifications may be approved by the zoning administrator if he or she determines that the changes would not affect the findings prescribed in Section 18.124.070 relating to findings. (Prior code § 2-11.13)

18.124.130 Suspension and revocation.

Upon violation of any applicable provision of this chapter, or, if granted subject to conditions, upon failure to comply with conditions, a use permit shall be suspended automatically. The planning commission shall hold a public hearing within 40 days, in accord with the procedure prescribed in Section 18.124.040, and if not satisfied that the regulation, general provision or condition is being complied with, may revoke the use permit or take such action as may be necessary to ensure compliance with the regulation, general provision or condition. Within 10 days following the date of a decision of the commission revoking a use permit, the secretary shall transmit to the city council written notice of the decision. The decision shall become final 15 days following the date on which the use permit was revoked or on the day following the next meeting of the council, whichever is later, unless an appeal has been taken to the council, or unless the council shall elect to review and decline to affirm the decision of the commission, in which cases Section 18.124.090 shall apply. (Prior code § 2-11.14)

18.124.140 Denial—New application.

Following the denial of a use permit application or the revocation of a use permit, no application for a use permit for the same or substantially the same conditional use on the same or substantially the same site shall be filed within one year from the date of denial or revocation of the use permit. (Prior code § 2-11.15)

18.124.150 Use permit to run with land.

A use permit granted pursuant to the provisions of this chapter shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application. (Prior code § 2-11.16)

18.124.160 Application with zoning reclassification.

Application for a use permit may be made at the same time as application for a change in district boundaries including the same property, in which case the planning commission shall hold the public hearing on the zoning reclassification and the use permit at the same meeting and may combine the two hearings. For the purposes of this section, the date of the commission decision on the use permit application shall be deemed to be the same as the date of enactment by the city council of an ordinance changing the district boundaries, provided that if the council modifies a recommen-

Chapter 18.132

VARIANCES

Sections:

18.132.010 Purpose—Authorization.

A. In order to prevent a particular property from being deprived of privileges enjoyed by other properties in the vicinity and under the identical zoning classification due to special circumstances applicable to the property, the zoning administrator is empowered to grant variances.

B. The power to grant variances does not extend to use regulations because the flexibility necessary to avoid results inconsistent with the objectives of the zoning regulations is provided by Chapter 18.124 of this title; provided, however, that a variance may be granted consistent with the provisions of this chapter to allow extension, expansion or alteration of a nonconforming use.

C. The zoning administrator may grant variances to the regulations prescribed by this title, in accord with the procedure prescribed in this chapter, with respect to fences, walls, hedges, screening and landscaping; site area, width, frontage and depth; front, rear and side yards; basic floor area; height of structures; distances between structures; courts; usable open space; signs; and off-street parking and off-street loading facilities. (Ord. 1520 § 5 1991; prior code § 2-11.23)

18.132.020 (Rep. by Ord. 1520 § 5, 1991).

18.132.030 Application—Required data and maps.

Application for a variance shall be filed with the zoning administrator on a form prescribed by the zoning administrator and shall include the following data and maps:

A. Name and address of the applicant;

B. Statement that the applicant is the owner or the authorized agent of the owner of the property on which the variance is being requested;

C. Address or description of the property;

D. Precise statement of the variance requested, the special circumstances giving rise to the request for the variance, and other data pertinent to the prerequisite findings set forth in Sections 18.132.090 through 18.132.110 of this chapter;

E. An accurate scale drawing of the site and any adjacent property affected, showing when pertinent, the contours at intervals of not more than five feet, and all existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities, and landscaped areas;

F. If required for a hearing as prescribed in Section 18.132.060, the application shall be accompanied by an accurate scale drawing of the site and the surrounding area showing existing streets and property lines for a distance from each boundary of the site determined by the zoning administrator to be necessary to illustrate the relationship to and impact on the surrounding area;

G. The zoning administrator may require additional information, plans and drawings if they are necessary to enable a determination as to whether the circumstances prescribed for the granting of a variance exist. The zoning administrator may authorize omission of any or all the plans and drawings required by this section if they are not necessary. (Ord. 1520 § 5, 1991; prior code § 2-11.25(1))

18.132.040 Application—Fee.

The application shall be accompanied by a fee established by resolution of the city council to cover the cost of handling the application as prescribed in this chapter. A single application may include requests for variances from more than one regulation applicable to the same site, or for similar variances on two or more sites with similar characteristics. (Prior code § 2-11.25(2))

18.132.050 Action by zoning administrator.

A. The zoning administrator may grant, grant in modified form, condition or deny a request for a variance. The zoning administrator must make a decision on a request on or before the 10th day following receipt of the completed application. The zoning administrator shall mail a notice of the action taken to the applicant, the board, adjacent property owners, or any others found by the administrator to be interested parties, on or before the fifth day following the decision. The administrator's decision shall become effective at five p.m. on the 15th day following the decision, unless an appeal to the planning commission or city council has been filed with the planning division prior to that time.

B. Applications not decided by the zoning administrator shall be decided by the planning commission. Upon receipt of the completed application, the zoning administrator shall schedule a hearing at the earliest possible meeting of the board, taking into account time necessary for staff preparation and public notice. (Ord. 2000 § 1, 2009; Ord. 1520 § 5, 1991; prior code § 2-11.26)

18.132.060 Public hearing.

The zoning administrator shall hold a public hearing on a variance application. If the zoning administrator refers a variance application to the planning commission, then the planning commission shall hold a public hearing on an application. The hearing shall be set and notice given as prescribed in Section 18.12.040 of this title. At a public hearing, the zoning administrator or planning commission shall review the application, statements and drawings submitted therewith and shall receive pertinent evidence concerning the variance, particularly with respect to the findings prescribed in Sections 18.132.090 through 18.132.110 of this chapter. (Ord. 1520 § 5, 1991; prior code § 2-11.27)

18.132.070 Investigation and report.

The zoning administrator shall make an investigation of each application that is a subject of a public hearing and shall prepare a report thereon which shall be made available to the applicant prior to the public hearing and submitted to the planning commission, if the commission shall hear the variance application. (Ord. 1520 § 5, 1991; prior code § 2-11.28)