SUPPLEMENT NO. 14

INSERTION GUIDE

PLEASANTON PLANNING AND ZONING CODE

July 2015

(Covering Ordinances through 2120)

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

Remove pages listed in the column headed "Remove Pages" and in their places insert the pages listed in the column headed "Insert Pages."

This Guide for Insertion should be retained as a permanent record of pages supplemented and should be inserted in the front of the 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.

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Title 17

PLANNING AND RELATED MATTERS

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17.04 Condominium Conversions

17.08 Flood Damage Prevention

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17.16 Tree Preservation

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17.12.080 Report—Consideration.

The geologic report prepared pursuant to this chapter shall be used by the appropriate city board, commission, council or staff person required to pass upon the new real estate development or structure for human occupancy to aid it in making its decision. The approving body may approve, deny or impose necessary conditions required to protect the public health, safety and general welfare from geologic hazards. (Prior code § 2-19.08)

17.12.090 Appeal.

The decision of the approving board, commission or staff person may be appealed pursuant to the applicable appellate provisions set forth in this code. (Prior code § 2-19.09)

17.12.100 Additional regulations.

In addition to the regulations set forth in this chapter, the department of housing and community development, with the consent of the city council, may adopt such standards or regulations as are necessary to protect the public from seismic hazards. These standards or regulations may be more stringent than, but shall not be in conflict with, the provisions of any policies and criteria adopted by the State Mining and Geology Board pursuant to Section 2623 of the Public Resources Code of the state, except where more stringent standards or regulations have been adopted from time to time by the state Mining and Geology Board, shall apply within the city. (Prior code § 2-19.10)

Chapter 17.16

TREE PRESERVATION*

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* **Prior code history; prior** code §§ 2-17.02-2-17.12; Ords. 1152, 1653.

17.16.003 Purpose and intent.

The city recognizes that preservation of trees enhances the natural scenic beauty, sustains the long-term potential increase in property values which encourages quality development, maintains the ecology, moderates the effect of extreme temperatures, prevents the erosion of topsoil, helps create an identity and quality, which enhances the attractiveness of the city to visitors and increases the oxygen output of the area which is needed to combat air pollution. For these reasons the city council finds that in order to promote the public health, safety and general welfare of the city while at the same time recognizing individual rights to develop and maintain private property in a manner which will not be prejudicial to the public interest it is necessary to enact regulations controlling the removal and preservation of heritage trees within the city. However, the city council also recognizes that under certain circumstances heritage trees may properly be removed. Those circumstances include where heritage trees are dangerous; are dead or diseased; are so situated on undeveloped land that their preservation would preclude feasible development; are so abundant their removal would not destroy the area's natural beauty or ecology or cause erosion; or have a significant impact on the property. It is the intent of this chapter to preserve as many heritage trees as possible throughout the city through staff review and the development review process. (Ord. 2120 § 1, 2015; Ord. 1737 § 1, 1998)

17.16.006 Definitions.

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

A. "Heritage tree" means a tree of any species or origin which meets any of the following:

1. Any single-trunked tree with a circumference of 55 inches or more measured four and one-half feet above ground level;
2. Any multi-trunked tree of which the two largest trunks have a circumference of 55 inches or more measured four and one-half feet above ground level;
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 the owner of improved property submitting an application to remove a heritage tree(s) located upon said property. Only the property owner may apply to remove a heritage tree(s) or appeal the director's decision.

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. 2120 § 1, 2015; Ord. 2019 § 1, 2011; 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, Best Management Practices, Tree Pruning, 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. 2019 § 1, 2011; 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 is filed.

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

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 feet 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. 2019 § 1, 2011; 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 only by the applicant. Such appeal must be submitted in writing to the city clerk within 20 days of the decision, and shall briefly state facts and the grounds of the appeal and be signed by the applicant filing the appeal.

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 been authorized in the first instance. The action of the appellate body on any such appeal shall be final and conclusive. (Ord. 2019 § 1, 2011; Ord. 1737 § 1, 1998)

17.16.043 Heritage tree board of appeals—Established.

There is created and established a board of appeals consisting of three members, two planning commissioners and one park and recreation commissioner appointed by their respective commissions. The board shall elect a chairperson. The director shall be an ex officio member of said board and shall serve as secretary. The board shall adopt reasonable rules and regulations for conducting its business. (Ord. 1737 § 1, 1998)

17.16.046 Heritage tree board of appeals—Duties.

The board of appeals shall:

A. Hold a hearing within 60 days after the city's receipt of appeal, to hear such testimony by any department of the city, the applicant who filed the appeal, or any interested party.

B. Make written findings of fact upholding, reversing or modifying the director's decision. The decision of the board shall be final. (Ord. 2019 § 1, 2011; Ord. 1737 § 1, 1998)

17.16.050 New property development.

A. Any person desiring to remove one or more trees on any property in the city which is related to the development of such property requiring city approval or where any tree may be affected by a proposed development shall include in the application to the appropriate city reviewing body as part of the regular application, the following:

1. A tree survey plan, including all trees which will be affected by the new development. The survey, noting all trees six inches in diameter and greater, shall specify the precise location of trunk and dripline, size, health and species of all existing trees on the property with a special notation of those classified as a heritage tree;

2. The applicant shall provide a report by a certified or consulting arborist. The report, based on the findings of the tree survey plan and other necessary information, shall be used to determine the health of existing trees, the effects of the proposed development upon the trees, recommendations for any special precautions necessary for their preservation and shall also indicate which trees are proposed for removal;

3. The tree survey plan and report shall be forwarded to the director who shall, after making a field visit to the property, indicate in writing which trees are recommended for preservation using the same standards set forth in Section 17.16.020 of this chapter. This report shall be made part of the staff report to the city reviewing body upon its consideration of the application for new property development;

4. The city reviewing body through its site and landscaping plan review shall endeavor to preserve all trees recommended for preservation by the director. The city reviewing body may determine that any of the trees recommended for preservation should be removed, if there is evidence submitted to it, that due to special site grading or other unusual characteristics associated with the property, the preservation of the tree(s) would significantly preclude feasible development of the property;

5. Approval of final site or landscape plans by the appropriate city reviewing body indicating which trees are to be removed shall constitute the approval and permit for the purpose of this chapter; and

6. Prior to issuance of a grading or building permit, the applicant shall secure an appraisal of the condition and replacement value of all trees included in the tree report affected by the development which are required to remain within the development. The appraisal of each tree shall recognize the location of the tree in the proposed development. The appraisal shall be performed in accordance with the current edition of the "Guide for Plant Appraisal" under the auspices of the International Society of Arboriculture. The appraisal shall be performed at the applicant's expense, and the appraiser shall be subject to the director's approval.

B. Prior to acceptance of subdivision improvements, the developer shall submit to the director a final tree report to be performed by a certified or consulting arborist. This report shall consider all trees that were to remain within the development. The report shall note the trees' health in relation to the initially reported condition of the trees and shall note any changes in the trees' numbers or physical conditions. The applicant will then be responsible for the loss of any tree not previously approved for removal. For trees which are not heritage trees which were removed, the developer shall pay a fine in the amount equal to the appraised value of the subject tree. For heritage trees which were removed, the developer shall pay a fine in the amount of the appraised value of such tree. The applicant shall remain responsible for the health and survival of all trees within the development for a period of one year following acceptance of the public improvements of the development.

C. Prior to the issuance of any permit allowing construction to begin, the applicant shall post cash, bond or other security satisfactory to the director, in the penal sum of $5,000.00 for each tree required to be preserved, or $25,000.00, whichever is less. The cash, bond or other security shall be retained for a period of one year following acceptance of the public improvements for the development and shall be forfeited in an amount equal to $5,000.00 per tree as a civil penalty in the event that a tree or trees required to be preserved are removed, destroyed or disfigured.

D. An applicant with a proposed development which requires underground utilities shall avoid the installation of said utilities within the dripline of existing trees whenever possible. In the event that this is unavoidable, all trenching shall be done by hand, taking extreme caution to avoid damage to the root structure. Work within the dripline of existing trees shall be supervised at all times by a certified or consulting arborist.

E. Any decision by a city reviewing body under this section may be appealed as in Section 17.16.040 of this chapter. (Ord. 1737 § 1, 1998)

17.16.060 Emergency action.

A person may remove or prune a heritage tree without a permit if there is an emergency caused by a heritage tree being in a hazardous or dangerous condition requiring immediate action for the safety of structures or human life. In such event, the director shall be notified at the earliest opportunity in order to confirm the emergency situation. If the director determines that the situation was not an emergency requiring immediate action, the person removing or damaging the heritage tree shall be subject to fines and penalties set forth in Section 17.16.110 of this chapter. (Ord. 1737 § 1, 1998)

17.16.070 Protection of existing trees.

All persons shall comply with the following precautions:

A. Prior to the commencement of construction, install a sturdy fence at the dripline of any tree which will be affected by the construction and prohibit any storage of construction materials or other materials inside the fence. The dripline shall not be altered in any way so as to increase the encroachment of the construction.

B. Prohibit excavation, grading, drainage and leveling within the dripline of the tree unless approved by the director.

C. Prohibit disposal or depositing of oil, gasoline, chemicals or other harmful materials within the dripline or in drainage channels, swales or areas that may lead to the dripline.

D. Prohibit the attachment of wires, signs and ropes to any heritage tree.

E. Design utility services and irrigation lines to be located outside of the dripline when feasible.

F. Retain the services of a certified or consulting arborist for periodic monitoring of the project site and the health of those trees to be preserved. The certified or consulting arborist shall be present whenever activities occur which pose a potential threat to the health of the trees to be preserved.

G. The director shall be notified of any damage that occurs to a tree during construction so that proper treatment may be administered. (Ord. 1737 § 1, 1998)

17.16.080 Pruning and maintenance.

All pruning of heritage trees shall be performed by a licensed contractor familiar with International Society of Arboriculture pruning guidelines and shall comply with the guidelines established by the International Society of Arboriculture, Best Management Practices, Tree Pruning, 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. 2019 § 1, 2011; 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, or other amount reasonably determined by the director of community development. If there is inadequate plant material to properly appraise the tree, the penalty shall be $5,000.00, or other amount reasonably determined by the director of community development. 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; or other amount reasonably determined by the director of community development. 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. 2120 § 1, 2015; 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:

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17.20.030 Extent.
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17.20.080 Division Street.
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17.20.100 Peters Avenue.
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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:

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17.36.080 Approval procedures.
17.36.090 Use and loss of growth management approval.
17.36.100 Modification to projects with growth management approval.
17.36.110 Fees and exactions.
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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.

F. In 2012, the city council amended the growth management program to reflect current circumstances and changes in state law. (Ord. 2112 § 2, 2015)

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 some certainty for the construction of city approved residential housing projects which are subject to market conditions that impact the timing of construction.

E. Facilitate and implement the general plan goals, including the goals of the housing element, which cannot be accomplished by zoning alone. (Ord. 2112 § 2, 2015)

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 until a growth management unit allocation is first granted by the city council pursuant to the regulations contained in this chapter. (Ord. 2112 § 2, 2015)

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. 2112 § 2, 2015)

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 allocations and should occur at the council's second meet-

ing 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, including those pertaining to trades or reallocation, require adjustment due to infrastructure/service constraints;

b. Determine whether to adjust future allocations established for new residential units;

c. Coordinate the requested trades of units among developers;

d. Determine the disposition of 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 unit allocations;

b. Review and act on requests for amendment of growth management agreements;

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

d. Take any other action determined by the council to be necessary to implement this chapter. (Ord. 2112 § 2, 2015)

17.36.060 Establishment of annual new residential unit limits.

A. Except as provided herein, effective July 1, 2014, the number of annual growth management unit allocations issued for new residential units subject to this chapter shall not exceed the regional housing needs allocation assigned to the city as provided in the Association of Bay Area Government Regional Housing Needs Allocation Plan divided by the number of years in the regional housing needs allocation cycle.

Except as provided in subsection 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 shall not be modified except by an ordinance adopted by the city council in implementing this chapter.

B. Within 90 days of the Association of Bay Area Governments issuing its regional housing needs allocation plan, the city manager shall provide the city council with a report identifying the annual growth management unit allocation.

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 growth management unit allocations shall affect any 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. Noth-

ing herein, however, limits the city's ability to impose a development moratorium under state law. (Ord. 2112 § 2, 2015)

17.36.080 Approval procedures.

A. A project developer must receive a growth management unit allocation for each housing unit proposed in accordance with the process below. One growth management unit allocation shall be required for each housing unit.

1. Prior Discretionary Project Approval Necessary.

a. A project developer may request a growth management unit allocation at the time of, or after, any of the following: PUD plan approval, design review approval, or a tentative map approval. The community development department 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.

b. No application will be accepted for processing by the planning division if the growth management unit allocation capacity is not available for a reasonable project phase within at least the second calendar year after the year the application is tendered.

2. Growth Management Approval.

a. The city council may grant a specific growth management unit allocation to a project for one or more years so long as the total units allocated do not exceed the growth management unit allocation for that year.

b. In reviewing a project developer's request for growth management unit allocation, the city council shall use its discretion in giving consideration to the number of projects which are pending or are likely to seek approval in the near term, the economic feasibility of phasing the project, and other factors. The approval of growth management unit allocations shall be in the form of a growth management agreement approved by the city council.

c. Notwithstanding subsection (A)(2)(b), a total of 10 growth management allocations for housing units subject to the discretionary approval of the Zoning Administrator as set forth in Chapter 18.20 of the Pleasanton Municipal Code, may be approved annually by the zoning administrator. Any such approval shall require the developer of the project to enter into a growth management agreement with the city approved by the zoning administrator without the need for city council approval. The city council may increase the number of allowable annual growth management allocations subject to discretionary approval of the zoning administrator based on demonstrated need.

d. Any growth management unit allocation approved will be deducted from the total number of annual growth management unit allocations available for the year in which the project is approved and from the total number of growth management unit allocations in the regional housing needs cycle.

B. Proration of Project Growth Management Unit Allocations. Generally, the approval of a growth management unit allocation is intended to be made available to developers in chronological order consistent with subsection (A)(1). However, in certain instances when the demand for growth management unit allocations is known to exceed the number of remaining units available in a particular year, the city may approve a growth management application in any manner it finds equitable, including assigning unused growth management unit allocations from previous years or to future years. If assigned to a future year, the unit allocation will be accounted for in that year; not the year the growth management agreement is approved.

C. In the event that growth management unit allocations are unavailable during a particular year and the city has approved a project containing affordable units that is subject to a city affordable housing agreement, growth management unit allocations from previous and/or future years shall be approved in the number required to accommodate the affordable housing units, including if necessary, borrowing from the next regional housing needs allocation period. (Ord. 2112 § 2, 2015)

17.36.090 Use and loss of growth management approval.

A. A project developer may be issued building permits up to the maximum number of growth management unit allocations established in its growth management agreement provided that a building permit shall not be issued prior to the year approved for the growth management unit allocations. Once the building permits are issued, the units may be constructed at any time consistent with conditions set forth in the growth management agreement or project approvals.

B. Any amendment to a growth management agreement requires submittal of an application on a form provided by the community development department and approval by the city council.

C. In the event a project developer does not utilize the maximum number of growth management unit allocations as specified in its growth management agreement, it may, subject to the approval by the city council, assign or trade the unused number of growth management unit allocations for use by a different project provided the parties involved in the assignment or trade show proof of an agreement regarding such trade. Any approved transfer or trade shall not be counted as new growth management unit allocations.

D. The city council shall have the discretion to approve rules or procedures concerning the use, loss, trade, reallocation, and assignment of growth management unit allocations at any time, including when the city council considers a project developer's development agreement or other legislative act relating to a project so as long as the overall number of allowed permits do not exceed the total number assigned to the city for the current regional housing needs allocation cycle. (Ord. 2112 § 2, 2015)

17.36.100 Modification to projects with growth management approval.

Once a project has secured a growth management agreement, the project may be modified without affecting its growth management allocation 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 unit 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 allocation, if applicable. (Ord. 2112 § 2, 2015)

17.36.110 Fees and exactions.

A. A project developer will pay normal city development fees in effect at the time building permits are issued or at the time otherwise provided by the city ordinances or resolutions, or by agreement.

B. A project developer shall pay the required city fees in conjunction with the issuance of a building permit. Growth management fees shall be placed in a special fund applied to public projects made necessary by the cumulative effects of ongoing residential development.

C. The city council may approve an increase or decrease in the growth management fees or permit a developer to provide finished public works in lieu of paying growth management or other city fees in order to achieve the purposes of this chapter and the general plan. The fee or public work may be implemented by resolution or by agreement with the developer. (Ord. 2112 § 2, 2015)

17.36.120 Application to prior approved projects.

A residential unit in projects which were approved prior to the effective date of the ordinance codified in this chapter and which have been determined by the city attorney to have a vested right to the issuance of a building permit at the time such a permit is sought shall be issued such permit notwithstanding the annual limitation on building permits contained in Section 17.36.060 of this chapter. (Ord. 2112 § 2, 2015)

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 17.46

DEDICATIONS*

Sections:

17.46.010 Purpose.
17.46.020 Requirements.
17.46.030 General standard.
17.46.040 Formula for dedication of land.
17.46.050 Formula for fees in lieu of land dedication.
17.46.060 Criteria for requiring both dedication and fee.
17.46.070 Amount of fee in lieu of land dedication.
17.46.080 Determination of fair market value.
17.46.090 Credit for private open space.
17.46.100 Procedure.
17.46.110 Disposition of fees.
17.46.120 Exemptions.
17.46.130 Subdivider provided park and recreation improvements.
17.46.140 Access.
17.46.150 Sale of dedicated land.

* **Prior history:** Prior code §§ 2-4.26 through 2-4.31; Ord. 856.

17.46.010 Purpose.

The ordinance from which this chapter derives is enacted pursuant to the authority granted by Section 66477 of the Government Code of the state. The park and recreational facilities for which dedication of land and/or payment of a fee is required by this chapter are in accordance with the recreation element of the general plan of the city. (Ord. 2120 § 1, 2015; Ord. 1370 § 1, 1988)

17.46.020 Requirements.

At the time of approval of the planned development, real estate development, stock cooperatives, community apartment project (hereinafter collectively referred to as "subdivisions"), tentative map or parcel map, the city council shall determine pursuant to Section 17.46.040 of this chapter the land required for dedication or in-lieu fee payment. As a condition of approval of a project, final subdivision map or parcel map, the developer or subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the city, for neighborhood and community park or recreational purposes at the time and according to the standards and formula contained in this chapter. (Ord. 2120 § 1, 2015; Ord. 1370 § 1, 1988)

17.46.030 General standard.

It is hereby found and determined that the public interest, convenience, health, welfare, and safety require that five acres of property for each 1,000 persons residing within this city be devoted to neighborhood and community park and recreational purposes. (Ord. 2120 § 1, 2015; Ord. 1370 § 1, 1988)

17.46.040 Formula for dedication of land.

A. Where a park or recreation facility has been designated as "parks and recreation," on the general plan map of the city, or which is in conformance with the policies of the general plan for recreational uses, and is to be located in whole or in part within the pro-posed subdivision to serve the immediate and future needs of the residents of the subdivision, the subdivider shall dedicate land for a local park sufficient in size and topography that bears a reasonable relationship to serve the present and future needs of the residents of the subdivision. The amount of land to be provided shall be determined pursuant to the formula set forth in subsection B.

B. The formula for determining acreage to be dedicated is as follows:

Dwelling Type	Assumed Density	Standard: Acres/DUs
Single-family	2.87 persons/DU	0.01435 acres/DU
Multi-family	2.30 persons/DU	0.01150 acres/DU

1. For purposes of this subsection, the following definitions shall apply:

a. "Single-family dwelling unit" shall mean:

(1) A dwelling unit occupying a separate, legal lot or parcel (example: a detached single-family home or paired or attached single-family home);

(2) A primary dwelling unit located on the same site as a second unit whether the second unit is detached or attached to the primary unit, but a second unit meeting the requirements in Chapter 18.106 of this code is not considered a single-family dwelling unit;

(3) A dwelling unit which is part of a structure containing no more than two dwelling units where both dwelling units are located on the same parcel of land (examples: duplexes, duets).

b. "Multiple-family dwelling unit" shall mean:

(1) A dwelling unit which is part of a larger structure including three or more units and which does not occupy its own separate or individual lot or parcel;

(2) A dwelling unit which is part of a larger structure including three or more units which occupies its own separate or individual lot or parcel, and which is separated from adjacent units by a building wall extending from ground to roof (example: townhomes);

(3) A dwelling unit which is part of a larger structure including two or more units which may be owned separately (but does not occupy ground space), and which is separated from adjacent units by a building wall extending from floor to ceiling (example: condominiums); or

(4) Mobilehomes in which two or more units are located on the same parcel of land (example: mobilehomes located in mobilehome or trailer parks in which the land is owned in common by a single owner).

C. Dedication of the land shall be made in accordance with the procedures contained in Section 17.46.100 of this chapter.

D. For the purposes of this section, the number of new dwelling units shall be based upon the number of parcels indicated on the map when in an area zoned for one dwelling unit per parcel. When all or part of the subdivision is located in an area zoned for more than one dwelling unit per parcel, the number of proposed dwelling units in the area so zoned shall equal the maximum allowed under that zoning unless plans have been approved by the city council which show a different number. In the case of a condominium project, the number of new dwelling units shall be the number of condominium units. The term "new dwelling unit" does not include dwelling units lawfully in place prior to the date on which the parcel or final map is filed.

E. The subdivider shall, without credit:

1. Provide half street improvements and utility connections as required which shall include, but not be limited to, curbs, gutters, street paving, traffic control devices, street trees, and sidewalks to land which is dedicated pursuant to this section.

2. Provide improved drainage through the site;

3. Provide a fence or wall, if located next to an existing or a planned residential area; and

4. Provide other minimal improvements which the city engineer and director of parks and community services determines to be essential to the acceptance of the land for recreational purposes.

F. A preliminary plan showing location details to the satisfaction of the director of parks and community services shall be submitted prior to subdivision of land or approval of a project. Also, the director of parks and community services shall approve the site for suitability of the land to be dedicated and the improvements to be made pursuant to this section. (Ord. 2120 § 1, 2015; Ord. 1886 § 2, 2003; Ord. 1879 § 1, 2003; Ord. 1631 § 1, 1994; Ord. 1605 § 1, 1993; Ord. 1370 § 1, 1988)

17.46.050 Formula for fees in lieu of land dedication.

A. General Formula. If there is no park or recreation facility designated as "parks and recreation" on the general plan map or which is not in conformance with the general plan policies and to be located in whole or in part within

the proposed subdivision or project to serve the immediate and future needs of the residents of the subdivision or project, the developer or subdivider shall, in lieu of dedicating land, pay a fee equal to the value of that land which would be required to be dedicated, plus costs of off-site improvements, prescribed for dedication in Section 17.46.040 of this chapter and in an amount determined in accordance with the provisions of Section 17.46.070 of this chapter, such fee to be used for a local park which bears a reasonable relationship to serve the present and future residents of the area being subdivided or approved for development. For the purposes of this chapter, "off-site improvements" are defined as those improvements which would have been required if land had been dedicated using the provisions of Section 17.46.040 of this chapter.

B. Fees In Lieu of Land—50 Dwelling Units or Less. If the proposed subdivision or project contains 50 dwelling units or less, the subdivider or developer shall pay a fee equal to the land value, plus costs of off-site improvements, of the portion of the local park required to serve the needs of residents of the proposed subdivision or project as prescribed in Section 17.46.040 of this chapter and in an amount determined in accordance with the provisions of Section 17.46.070 of this chapter. However, nothing in this section shall prohibit the dedication and acceptance of land for park and recreation purposes in subdivisions or projects of 50 dwelling units or less, where the subdivider or developer proposes such dedication voluntarily and the land is suitable to the director of parks and community services and accepted by the city council.

C. Use of Money. The money collected hereunder shall be used only for the purpose of acquiring necessary land and developing new or rehabilitating existing park or recreational facilities reasonably related to serving the subdivision or project. (Ord. 2120 § 1, 2015; Ord. 1370 § 1, 1988)

17.46.060 Criteria for requiring both dedication and fee.

If a developer or subdivider dedicates more land than is required pursuant to this chapter, the developer or subdivider shall not be given money or credit for said additional land. (Ord. 2120 § 1, 2015; Ord. 1370 § 1, 1988)

17.46.070 Amount of fee in lieu of land dedication.

A. When a fee is to be paid in lieu of land dedication, value of the amount of such fee shall be based upon the fair market value of the amount of land which would otherwise be required for dedication pursuant to Section 17.46.040 of this chapter, plus costs of off-site improvements, such as extension of utility lines. The fee shall be determined by the following formula:

$$\text{DUs} \times \frac{\text{Pop}}{\text{DU}} \times \frac{5 \text{ acres}}{1{,}000 \text{ people}} \times \frac{\text{FMV}}{\text{Buildable acre}} = \text{Subtotal}$$

$$\text{Subtotal} + \text{Cost of off-site improvements} = \text{Total in lieu fee pursuant to Section 17.46.040}$$

where:

DUs	=	Number of dwelling units as defined in Section 17.46.040
$\frac{\text{Pop}}{\text{DU}}$	=	Population per dwelling unit
FMV	=	Fair market value, as determined by Section 17.46.080
Buildable acre	=	A typical acre of the subdivision, with a slope less than 10 percent, and located in other than an area on which building is excluded because of flooding, easements or other restrictions.

B. Fees to be collected pursuant to this section shall be approved by the director of parks and community services. (Ord. 2120 § 1, 2015; Ord. 1370 § 1, 1988)

17.46.080 Determination of fair market value.

For purposes of this chapter, an annual fair market value shall be determined by the city council. When a fee is to be paid in lieu of land dedication, the value of off-site improvements for single-family and multi-family units shall be

as set forth in the master fee schedule (on file in the office of the city clerk). (Ord. 2120 § 1, 2015; Ord. 1605 § 2, 1993; Ord. 1370 § 1, 1988)

17.46.090 Credit for private open space.

A. No credit shall be given for private open space in the subdivision or project except as provided in this section. Where private open space usable for active recreational purposes is provided in a proposed planned development or real estate development as defined in Sections 11003 and 11003.1 of the Business and Professions Code, partial credit, as set forth in subsection B of this section, shall be given against the requirement of land dedication or payment of fees in lieu thereof, if the city council finds that it is in the public interest to do so and that all the following standards are met:

1. Yards, court areas, setbacks and other open areas required by the zoning and building ordinances and regulations shall not be included in the computation of such private open space; and

2. Private park and recreation facilities shall be owned by a homeowners' association composed of all property owners in the subdivision and being an incorporated nonprofit organization capable of dissolution only by a 100 percent affirmative vote of the membership, operated under recorded land agreements through which each lot owner in the neighborhood is automatically a member, and each lot is subject to a charge for a proportionate share of expenses for maintaining the facilities; and

3. Use of the private open space is restricted for park and recreation purposes by recorded covenant which runs with the land in favor of the future owners of the property and which cannot be defeated or eliminated without the consent of the city or its successor; and

4. The proposed private open space is reasonably adaptable for use for active recreational purposes, taking into consideration such factors as size, shape, topography, geology, access and location; and

5. Facilities proposed for the open space are in substantial accordance with the provisions of the recreation element of the general plan; and

6. The open space for which credit is given is generally a minimum of three acres and provides all of the local park basic elements listed below, or a combination of such and other recreation improvements that will meet the specific recreation needs of the future residents of the area:

a. Recreational open spaces, which are generally defined as parks areas for active recreation pursuits such as soccer, golf, baseball, softball and football, and have at least one acre of maintained turf with less than 10 percent slope.

b. Court areas, which are generally defined as tennis courts, badminton courts, shuffleboard courts or similar hard-surfaced areas especially designed and exclusively used for court games.

c. Recreational swimming areas, which are defined generally as fenced areas devoted primarily to swimming, diving or both. They must also include decks, lawned area, bathhouses or other facilities developed and used exclusively for swimming and diving and consisting of no less than 15 square feet of water surface area for each three of the population of the subdivision with a minimum of 800 square feet of water surface area per pool together with an adjacent deck and/or lawn area twice that of the pool.

d. Recreation buildings and facilities designed and primarily used for the recreational needs of residents of the development.

B. Where the city council gives a credit for private open space, the percentage of the maximum credit shall be calculated based on the proportion of neighborhood parkland to the overall neighborhood/community parkland in the city at the time the credit is requested; provided, however, that the credit shall at no time exceed 50 percent. Nothing provided in this section means that the city council must give the maximum credit allowable.

C. The determination of the city council as to whether credit shall be given and the amount of credit shall be final and conclusive. (Ord. 2120 § 1, 2015; Ord. 1695 § 1, 1996; Ord. 1370 § 1, 1988)

17.46.100 Procedure.

A. At the time of filing of the final approval of the subdivision, or subdivision map or parcel map, the subdivider shall dedicate the land or pay the fees as established at the time of subdivision approval, tentative map or parcel map approval. In-lieu fees will be established using current land values at the time of final map approval with the formula set forth in Section 17.46.070 of this chapter. The in-lieu fee shall be based on the fair market value of the land as determined in Section 17.46.080 of this chapter.

B. Open space covenants for private park or recreation facilities subject to Section 17.46.090 of this chapter shall be submitted to the city attorney prior to approval of the final subdivision or parcel map and shall be recorded contemporaneously with the final subdivision.

C. For projects without subdivision, the in-lieu fee shall be paid at the time of the building permit based on the fee in the Master Fee Schedule. (Ord. 2120 § 1, 2015; Ord. 1370 § 1, 1988)

17.46.110 Disposition of fees.

A. Fees determined pursuant to Section 17.46.070 of this chapter shall be paid to the city and shall be deposited into the subdivision park trust fund, or its successor. Money in said fund, including accrued interest, shall be expended solely for acquisition or development of park land or improvements related thereto.

B. Collected fees shall be appropriated by the city council to which the land or fees are conveyed or paid for a specific project or community park to serve residents of the subdivision or project in a budgetary year within five years upon receipt of payment or within five years after the issuance of building permits on one-half of the lots created by the subdivision or project, whichever occurs later.

C. If such fees are not so committed, these fees, less an administrative charge, shall be distributed and paid to the then record owners of the subdivision or project in the same proportion that the size of their lot bears to the total area of all lots in the subdivision or project. (Ord. 2120 § 1, 2015; Ord. 1370 § 1, 1988)

17.46.120 Exemptions.

A. Subdivisions containing less than five dwelling units or parcels and not used for residential purposes shall be exempted from the requirements of this chapter, provided, however, that a condition shall be placed on the approval of such parcel map or project that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels the fee may be required to be paid by the owner of each such parcel as a condition to the issuance of such permit.

B. The provisions of this chapter do not apply to commercial or industrial subdivision, nor do they apply to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added.

C. The provisions of this chapter do not apply to a second unit meeting the requirements in Chapter 18.106 of this code.

D. The provisions of this chapter do not apply to nursing homes and senior care/assisted living facilities as defined in Chapter 18.08 of this code. (Ord. 2120 § 1, 2015; Ord. 1886 § 3, 2003; Ord. 1370 § 1, 1988)

17.46.130 Subdivider provided park and recreation improvements.

The value of park and recreation improvements provided by the subdivider or developer to the dedicated land shall be credited against the fees or dedication of land required by this chapter subject to the limitations of Section 17.46.060 of this chapter. The city council reserves the right to approve such improvements prior to agreeing to accept the dedication of land and to require in lieu fee payments should the land and improvements be unacceptable. (Ord. 2120 § 1, 2015; Ord. 1370 § 1, 1988)

17.46.140 Access.

All land offered for dedication to local park or recreational purposes shall have access to at least one existing or proposed public street. This requirement may be waived by the director of parks and community services if the director determines that public street access is unnecessary for the maintenance of the park area or use thereof by residents. (Ord. 2120 § 1, 2015; Ord. 1370 § 1, 1988)

17.46.150 Sale of dedicated land.

If during the ensuing time between dedication of land for park purposes and commencement of first stage development, circumstances arise which indicate that another site would be more suitable for local park or recreational purposes serving the subdivision and the neighborhood (such as receipt of a gift of additional park land or a change in school location), the land may be sold upon the approval of the city council with the resultant funds being used for purchase of a more suitable site. (Ord. 2120 § 1, 2015; Ord. 1370 § 1, 1988)

Chapter 17.48

RIGHT TO FARM

Sections:

17.48.010 Findings and policy.
17.48.020 Definitions.
17.48.030 Nuisance.
17.48.040 Resolution of disputes.
17.48.050 Role of agricultural advisory committee.
17.48.060 Procedures.

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-

Title 18

ZONING

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18.08.167 Family.

"Family" means an individual or two or more persons who are related by blood or marriage; or otherwise live together in a dwelling unit. (See Housing Code Chapter 20.28 and 24 C.C.R. Section 202, as amended.) (Ord. 2062 § 2, 2013; Ord. 1880, 2003; prior code § 2-5.19(e))

18.08.170 Emergency standby electricity generator, fuel cell, or battery facility.

"Emergency standby electricity generator, fuel cell, or battery facility" means one or more electrical power generators (not including nuclear power generators), fuel cells, and/or batteries on a site which produce electricity via an engine, turbine, fuel cell, or battery, and which are only operated during interruptions of electrical service to the electrical power grid in Pleasanton or when the generators, fuel cells, or batteries are tested or serviced. (Ord. 1880, 2003)

18.08.172 Family daycare home.

"Family daycare home" means a home which regularly provides care, protection and supervision of children in the provider's own home for periods of less than 24 hours per day while the children's parents or guardians are away, including the following:

A. Small Family Daycare Home. A home providing family daycare to seven or fewer children, including children under the age of 10 years who reside at the home in compliance with California Health and Safety Code Section 1597.44, as amended;

B. Large Family Daycare Home. A home providing family daycare to eight to 14 children, inclusive, including children under the age of 10 years who reside at the home in compliance with California Health and Safety Code Section 1597.465, as amended. (Ord. 2120 § 1, 2015; Ord. 1880, 2003; Ord. 1126 § 1, 1984; prior code § 2-5.19(f))

18.08.175 Firearm.

"Firearm" means a gun, pistol, revolver, rifle or any device, designed or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of explosion or other form of combustion. (Ord. 1738 § 1, 1998)

18.08.180 Firearm sales.

"Firearm sales" or "sale of firearms" means the sale, transfer, lease, offer, registration, or advertising for sale, transfer, lease, offer or registration of a firearm. (Ord. 1738 § 1, 1998)

18.08.185 Firearm sales, antique.

"Antique firearm sales" means the sale of any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898), and also any firearm using fixed ammunition manufactured in or before 1898, for which the ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade. (Ord. 1738 § 1, 1998)

18.08.190 Floor area, basic.

"Basic floor area" means the total amount of gross floor area a building contains, expressed as a percentage of the total area of the lot. (Prior code § 2-5.20(a))

18.08.195 Floor area, gross.

"Gross floor area" means the sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same site excluding: basement or cellar areas used only for storage; space used for off-street parking or

loading; steps, patios, decks, terraces, porches, and exterior balconies, if not enclosed on more than three sides. Unless excepted above, floor area includes, but is not limited to, elevator shafts and stairwells measured at each floor (but not mechanical shafts), penthouses, enclosed porches, interior balconies and mezzanines. (Prior code § 2-5.20(b))

18.08.200 Frontage.

"Frontage" means the property line of a site abutting on a street, other than the side line of a corner lot. "Frontage" shall be measured as the shortest distance between the points at which the side property lines intersect the street property line. (Prior code § 2-5.20(c))

18.08.205 Fuel cell facility.

"Fuel cell facility" means one or more electrical power generators which convert either hydrogen or a hydrocarbon based fuel into electricity through an electrochemical reaction, and which is further defined as follows:

A. "Large." Eleven to less than 50 megawatts in combined total size, and for which some or all of the electricity produced is exported off site.

B. "Medium." Either: (1) one to 10 megawatts in combined total size; or (2) 11 to less than 50 megawatts in combined total size, if no electricity is exported off-site.

C. "Small." Less than one megawatt in combined total size.

The size of a fuel cell facility does not pertain to emergency standby fuel cell facilities, as defined by this chapter. (Ord. 1880, 2003)

18.08.207 Game arcade.

"Game arcade" means any business which provides for public use two or more commercial "amusement devices" as defined by Section 6.04.010 of this code, or any business with fewer such devices where their operation is the primary business function. (Ord. 1071 § 1, 1983; prior code § 2-5.20(d))

18.08.210 Garage or carport.

"Garage" or "carport" means a class I accessory structure or a portion of a main structure, having a permanent roof, and designed for the storage of motor vehicles. (Prior code § 2-5.20(e))

18.08.215 Garage, parking.

"Parking garage" means a structure or part thereof used for the storage, parking or servicing of motor vehicles, but not for the repair thereof. (Prior code § 2-5.21(a))

18.08.220 Garage, repair.

"Repair garage" means a structure or part thereof where motor vehicles or parts thereof are repaired or painted. (Ord. 1071 § 1, 1983; prior code § 2-5.20(f))

18.08.225 Garden center.

"Garden center" means a site or structure where, in addition to the services offered by a nursery, flora materials, garden accessories (such as lawn and garden furniture, statuary, swimming pool supplies and equipment, irrigation supplies, greenhouses, lawn mowers, etc.) and landscape and garden construction and bulk materials (such as decking, decorative rock, tan bark, paving stones, bender board, etc.) may be sold and garden or landscape related services (such as lawn mower sharpening and repair, garden equipment rental, etc.) may be offered. (Prior code § 2-5.21(b))

18.08.230 Grid.

"Grid" means the electrical distribution and transmission system in Pleasanton. (Ord. 1880, 2003)

18.08.232 Habitable room.

"Habitable room" means a room meeting the requirements of the uniform building code for sleeping, living, cooking or dining purposes, excluding such enclosed spaces as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms and similar spaces. (Ord. 1880, 2003; prior code § 2-5.21(c))

18.08.235 Home occupation.

"Home occupation" means the conduct of an art or profession, the offering of a service, the conduct of a business, or the handcraft manufacture of products in a dwelling in accord with the regulations prescribed in Chapter 18.104 of this title. (Prior code § 2-5.21(d))

18.08.237 Homeless shelter.

"Homeless shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less. (See California Health and Safety Code Section 50801(e).) (Ord. 2061 § 2, 2013)

18.08.240 Hotel.

See definition of Motel or Hotel. (Prior code § 2-5.20(e))

18.08.245 Household pet.

"Household pet" means any animal of a domesticated species kept inside a dwelling or any dog or cat kept on the same premises by the occupant of a dwelling. The term shall not be deemed to include any rabbit, fowl, pigeon, sheep, goat, hog or other livestock kept in the open or in an accessory structure. (Prior code § 2-5.21(i))

18.08.250 Illumination, diffused.

"Diffused illumination" means illumination by means of light which travels through a material, other than the bulb or tubing necessary to enclose the light source, so that the light is spread evenly over the surface of the diffusing material. (Prior code § 2-5.21(f))

18.08.255 Illumination, direct.

"Direct illumination" means illumination by means of light which travels directly from its source to the viewer's eye. (Prior code § 2-5.21(g))

18.08.260 Illumination, indirect.

"Indirect illumination" means illumination by means only of light cast upon an opaque surface from a concealed source. (Prior code § 2-5.21(h))

18.08.265 Intersection, street.

"Street intersection" means the area common to two or more intersecting streets. (Prior code § 2-5.22(a))

J. Employee housing (agricultural) that complies with California Health and Safety Code Section 17008, 17021.5 or 17021.6 (depending on the number of employees accommodated) and the other applicable provisions of the Employees Housing Act at California Health and Safety Code Section 17000 et seq., and to include a residential safety management plan;

K. Supportive housing that provides shelter for six or fewer persons in a dwelling unit, subject to the provisions of Chapter 18.107;

L. Transitional housing that provides shelter for six or fewer persons in a dwelling unit, subject to the provisions of Chapter 18.107;

M. Beekeeping meeting the requirements of Chapter 18.103 of this title. (Ord. 2113 § 1, 2015; Ord. 2062 § 2, 2013; Ord. 2061 § 2, 2013; Ord. 1885 § 2, 2003; Ord. 1880, 2003; Ord. 1126 § 3, 1984; prior code § 2-6.02)

18.28.040 Conditional uses.

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

A. 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.

3. Wind energy facilities that meet the following criteria:

a. 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;

b. The design of the facilities shall be streamlined (without ladders and extra appurtenances) to discourage birds from roosting on the facilities;

c. Facilities on hillsides or ridges shall not be visible from a public right-of-way.

B. Agriculture processing plants.

C. Airports and heliports.

D. Animal sales yards.

E. Automobile and motorcycle racing stadiums and drag strips.

F. Cemeteries, crematories, and columbariums.

G. Charitable institutions and social service and social welfare centers.

H. Churches, convents, monasteries, parish houses, parsonages, and other religious institutions.

I. Commercial kennels.

J. Commercial and private recreation facilities.

K. Dairies and processing of dairy products.

L. Drive-in theaters.

M. Fertilizer plants and yards.

N. Firearm sales at a rifle or pistol range.

O. Garbage and refuse incineration.

P. Gas and oil wells.

Q. Golf courses and golf driving ranges.

R. Guest ranches.

S. Hog and livestock raising, not including feedlots where more than 50 percent of the feed is imported.

T. Hospitals.

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

V. Nursery schools.

W. Nursing homes, senior care/assisted living facilities, and sanitariums.

X. Poultry raising, egg processing, and hatcheries.

Y. Private schools.

Z. 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, storage tanks, and railroad facilities. These facilities must be found by the planning commission to be necessary for the public health, safety, or welfare.

AA. Rabbit raising.

BB. Recreational vehicle storage facilities.

CC. Riding academies and stables.

DD. Rifle and pistol ranges.

EE. Roadside stands for the sale of agricultural produce grown on the site.

FF. Sanitary landfill operations.

GG. Veterinarians' offices.

HH. Wineries, winery sales and tasting rooms.

II. Wood sales and storage yards for unmilled lumber. (Ord. 2113 § 1, 2015; Ord. 2086 § 2, 2014; Ord. 2062 § 2, 2013; Ord. 1880, 2003; Ord. 1743, 1998; Ord. 1738 § 1, 1998; Ord. 1157 § 1, 1984; Ord. 1126 § 4, 1984; prior code § 2-6.03)

18.28.045 Prohibited uses.

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

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)

18.28.050 Off-street parking.

Off-street parking facilities shall be provided for each use in the A district as prescribed in Chapter 18.88 of this title. (Prior code § 2-6.04)

18.28.060 Off-street loading.

Off-street loading facilities shall be provided for each use in the A district as prescribed in Chapter 18.92 of this title. (Prior code § 2-6.05)

18.28.070 Signs.

No signs, outdoor advertising structure, or display of any character shall be permitted in the A district, except as prescribed in Chapter 18.96 of this title. (Prior code § 2-6.06)

18.28.080 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 § 2-6.07)

Chapter 18.32

R-1 ONE-FAMILY RESIDENTIAL DISTRICTS

Sections:

18.32.010 Purpose.
18.32.020 Required conditions.
18.32.030 Permitted uses.
18.32.040 Conditional uses.
18.32.045 Temporary conditional uses.
18.32.050 Prohibited uses.
18.32.060 Off-street parking.
18.32.070 Off-street loading.
18.32.080 Signs.
18.32.090 Design review.

18.32.010 Purpose.

In addition to the objectives prescribed in Section 18.04.010 of this title, the R-1 one-family residential districts are included in this title to achieve the following purposes:

A. To reserve appropriately located areas for family living at reasonable population densities consistent with sound standards of public health and safety;

B. To ensure adequate light, air, privacy and open space for each dwelling;

C. To protect one-family dwellings from the lack of privacy associated with multi-family dwellings;

D. To provide space for semipublic facilities needed to complement urban residential areas and for institutions that require a residential environment;

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 land around them;

F. To preserve the natural beauty of hillsides and avoid slide and drainage problems by encouraging retention of natural vegetation and discouraging improperly controlled mass grading;

G. To provide necessary space for off-street parking of automobiles and, where appropriate, for off-street loading of trucks;

H. To protect residential properties from the hazards, noise and congestion created by commercial and industrial traffic;

I. To protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influences;

J. To protect residential properties from fire, explosion, noxious fumes and other hazards. (Prior code § 2-6.11)

18.32.020 Required conditions.

All uses shall comply with the regulations prescribed in Chapter 18.84 of this title. (Prior code § 2-6.12)

18.32.030 Permitted uses.

The following uses shall be permitted in the R-1 districts:

A. One-family dwelling in which not more than two guest sleeping rooms may be used for lodging or boarding.

B. Raising of fruits, nuts, vegetables and horticultural specialties for private, noncommercial consumption.

C. Temporary subdivision sales offices conducted in accord with the regulations prescribed in Chapter 18.116 of this title.

D. Accessory structures located on the same site with a permitted use, including private garages and carports, one guesthouse or accessory living quarters without a kitchen, storehouse, garden structures, greenhouses, recreation rooms and hobby areas within an enclosed structure 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 federal holidays or on "Spare The Air Days" in Alameda County;
2. Portable, temporary electricity generator, fuel cell, or battery facilities in the R-1-40,000 district;
3. Photovoltaic facilities.

E. Private stable for the keeping of two horses on a site not less than 40,000 square feet in area, except that one additional horse may be kept for each additional 40,000 square feet of site areas, provided that no stable shall be located closer than 50 feet to any property line, closer than 50 feet to any dwelling on the site, or closer than 100 feet to any other dwelling.

F. Household pets including up to six female chickens.

G. Small family daycare homes.

H. Second units meeting the requirements in Chapter 18.106 of this title.

I. Employee housing (agricultural) that complies with California Health and Safety Code Sections 17008, 17021.5 and the other applicable provisions of the Employee Housing Act at California Health and Safety Code Sections 17000 et seq., and to include a residential safety management plan.

J. Supportive housing that provides shelter for six or fewer persons in a dwelling unit, subject to the provisions of Chapter 18.107.

K. Transitional housing that provides shelter for six or fewer persons in a dwelling unit, subject to the provisions of Chapter 18.107.

L. Beekeeping meeting the requirements of Chapter 18.103 of this title. (Ord. 2113 § 1, 2015; Ord. 2062 § 2, 2013; Ord. 2061 § 2, 2013; Ord. 1930 § 1, 2006; Ord. 1885 § 2, 2003; Ord. 1880, 2003; Ord. 1636 § 3, 1994; Ord. 1126 § 5, 1984; prior code § 2-6.13)

18.32.040 Conditional uses.

The following conditional uses shall be permitted in the R-1 districts upon the granting of a use permit in accord with the provisions of Chapter 18.124 of this title:

A. Agriculture for commercial purposes limited to the raising of fruits, nuts, vegetables, horticultural specialties, and related facilities and structures.

B. Charitable institutions.

C. Churches, convents, monasteries, parish houses, parsonages and other religious institutions.

D. Golf courses.

E. Nursery schools.

F. Nursing homes and senior care/assisted living facilities for not more than three patients.

G. Private recreation parks and swim clubs.

H. Private nonprofit schools.

I. 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.

J. 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. Small electricity generator facilities located on the same site as a charitable institution, religious institution, golf course, nursery school, nursing home, senior care/assisted living facility, private recreation facility, private recreation park, private swim club, private nonprofit school, or public facility and that meet the following criteria:

   a. The fuel source for the generators shall be natural gas, biodiesel, 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;

   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; and

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

L. Rabbit or fowl raising (including more than six female chickens) consistent with the provisions of Section 7.36.010 of this code.

M. Any grading requiring a permit by Section 7006 of the building code of the city on property having a "weighted incremental slope," as defined in Chapter 18.76 of this title, of 10 percent or greater. This subsection shall not apply to any recorded lot or to any property on which an approved tentative map exists at the effective date hereof.

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

O. Skateboard ramps.

P. Small bed and breakfasts in accordance with Chapter 18.124, Article III of this title.

Q. Employee housing (agricultural) that complies with California Health and Safety Code Sections 17008, 17021.6 and the other applicable provisions of the Employee Housing Act at California Health and Safety Code Section 17000 et seq., and to include a residential safety management plan. (Ord. 2086 § 2, 2014; Ord. 2062 § 2, 2013; Ord. 1930 § 1, 2006; Ord. 1885 § 2, 2003; Ord. 1880, 2003; Ord. 1812, 2000; Ord. 1743, 1998; Ord. 1690 § 3, 1996; Ord. 1636 § 4, 1994; Ord. 1238 § 3, 1986; Ord. 1126 § 6, 1984; prior code § 2-6.14)

18.32.045 Temporary conditional uses.

The following conditional uses shall be permitted in R-1 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 § 1, 1989)

18.32.050 Prohibited uses.

The following uses shall not be permitted in the R-1 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 in 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 § 2-6.12(a))

18.32.060 Off-street parking.

Off-street parking facilities shall be provided for each use in the R-1 districts as prescribed in Chapter 18.88 of this title. (Prior code § 2-6.15)

18.32.070 Off-street loading.

Off-street loading facilities shall be provided for each use in the R-1 districts as prescribed in Chapter 18.92 of this title. (Prior code § 2-6.16)

18.32.080 Signs.

No sign, outdoor advertising structure, or display of any character shall be permitted in the R-1 districts except as prescribed in Chapter 18.96 of this title. (Prior code § 2-6.17)

18.32.090 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 § 2-6.18)

Chapter 18.36

RM MULTI-FAMILY RESIDENTIAL DISTRICTS

Sections:

18.36.010 Purpose.
18.36.020 Required conditions.
18.36.030 Permitted uses.
18.36.040 Conditional uses.
18.36.045 Temporary conditional uses.
18.36.050 Prohibited uses.
18.36.060 RM-1,500 district—Reduced site area per dwelling unit with parking under or within structure.
18.36.070 Underground utilities.
18.36.080 Off-street parking.
18.36.090 Off-street loading.
18.36.095 Transit incentive.
18.36.100 Signs.
18.36.110 Design review.

18.36.010 Purpose.

In addition to the objectives prescribed in Section 18.04.010 of this title, the RM multi-family residential districts are included in this title to achieve the following purposes:

A. To reserve appropriately located areas for family living in a variety of types of dwellings at a reasonable range of population densities consistent with sound standards of public health and safety;

B. To preserve as many as possible of the desirable characteristics of the one-family residential district while permitting higher population densities;

C. To ensure adequate light, air, privacy and open space for each dwelling unit;

D. To provide space for semipublic facilities needed to complement urban residential areas and space for institutions that require a residential environment;

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 land around them;

F. To provide necessary space for off-street parking of automobiles and, where appropriate, for off-street loading of trucks;

G. To protect residential properties from the hazards, noise and congestion created by commercial and industrial traffic;

H. To protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare and other objectionable influences;

I. To protect residential properties from fire, explosion, noxious fumes and other hazards. (Prior code § 2-6.22)

18.36.020 Required conditions.

All uses in the RM districts shall comply with the regulations prescribed in Chapter 18.84 of this title. (Prior code § 2-6.23)

18.36.030 Permitted uses.

The following uses shall be permitted in the RM multi-family residential districts:

A. One-family dwellings in which not more than two guest sleeping rooms may be used for lodging or boarding.

B. Multi-family dwellings.

C. Combinations of attached or detached dwellings, including duplexes, multi-family dwellings, dwelling groups, row houses and townhouses.

D. Nursing homes and senior care/assisted living facilities for not more than three patients.

E. 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 federal holidays or on "Spare the Air Days" in Alameda County;

2. Photovoltaic facilities.

F. Not more than two weaned household pets, excepting fish and caged birds.

G. Small family daycare homes.

H. Second units meeting the requirements in Chapter 18.106 of this title.

I. Employee housing (agricultural) that complies with California Health and Safety Code Sections 17008, 17021.5 and the other applicable provisions of the Employee Housing Act at California Health and Safety Code Section 17000 et seq., and to include a residential safety management plan.

J. Supportive housing, subject to the provisions of Chapter 18.107.

K. Transitional housing, subject to the provisions of Chapter 18.107.

L. Beekeeping meeting the requirements of Chapter 18.103 of this title. (Ord. 2113 § 1, 2015; Ord. 2086 § 2, 2014; Ord. 2062 § 2, 2013; Ord. 2061 § 2, 2013; Ord. 1885 § 2, 2003; Ord. 1880, 2003; Ord. 1743, 1998; Ord. 1636 § 5, 1994; Ord. 1126 § 7, 1984; prior code § 2-6.24)

18.36.040 Conditional uses.

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

A. Charitable institutions.

B. Churches, convents, monasteries, parish houses, parsonages and other religious institutions.

C. Golf courses.

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

E. Lodging houses.

F. In the RM-1,500 district only, motels.

G. Nursery schools.

H. Private recreation parks and swim clubs.

I. Private schools, tutorial schools, and colleges, not including art, craft, music, dancing, business, professional or trade schools or colleges.

J. Private noncommercial clubs and lodges, not including hiring halls.

K. 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.

L. Trailer parks in accord with the regulations prescribed in Chapter 18.108 of this title.

M. 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. 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, biodiesel, 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. 2086 § 2, 2014; 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)

18.36.095 Transit incentive.

For new multi-family dwellings of 20 units or more that are on sites located within one-half mile of a BART station platform, a transit benefit shall be required as provided in Chapter 17.26. (Ord. 2094 § 2, 2014)

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)

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, 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.

M. Beekeeping meeting the requirements of Chapter 18.103 of this title.

The standard city noise ordinance applies. (Ord. 2113 § 1, 2015; Ord. 2086 § 2, 2014; 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, tutorial schools, and colleges, including music and dance studios not less than 150 feet from an R district which cannot meet the criteria 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. 2086 § 2, 2014; 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)

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
1. Medium electricity generator facilities that meet the applicable standards of Section 18.124.290 of this title	C	C	C	C	C	C	C
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	
Basement storage, as defined in Section 18.08.057, that meet all of the following criteria:				P			
1. Basement storage shall be limited to the central commercial (C-C) zoning district within the downtown specific plan area and limited to commercial buildings only							
2. Basement storage shall be limited to nontoxic, nonhazardous materials only. It is the responsibility of the storage space operator to prepare a list of prohibited storage items, to have the list approved by the Livermore-Pleasanton fire department, and to require all storage space users to agree in writing that no items on the list or other hazardous materials will be stored. The storage space shall be used for storage only and no other activities and/or uses are allowed							
3. Prior to allowing basement storage, the building owner shall contact the building and safety division and fire department to ensure that the basement meets applicable building and fire codes. If required, the building owner and/or responsible party shall secure all applicable permits and/or make any required changes to the							

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
basement space to ensure the space meets current code standards for fire, safety, and accessibility							
4. The hours of access for basement storage use shall be: Monday through Friday from 6:00 a.m. to 10:00 p.m. and Saturday and Sunday from 10:00 a.m. to 6:00 p.m. only							
5. One parking space per on-site storage employee and one parking space for storage customers. This parking requirement is in addition to the parking required for other uses on-site							
6. Prior to allowing and/or renting space for basement storage, the property owner and/or responsible party shall submit a zoning certificate application and secure a business license. The zoning certificate application shall be accompanied by a narrative that describes the type of storage proposed, where parking will be allowed, and the use(s) of the building and shall include a site plan and basement storage floor plan that clearly defines, but is not limited to, the following:							
a. The defined area(s) and square-footage in which storage will take place							
b. How the individual storage areas will be delineated (e.g., cages, walls, etc.)							
c. Access and ADA accessibility							
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			
Beekeeping meeting the requirements of Chapter 18.103 of this title for detached, single-family homes located in the Downtown Specific Plan Area				P	P		
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		

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
Building materials sales		C			C		
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			

	CR*(m)	CR**(p)	CN	CC	CS	CF	CA
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 official			C				
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. 2113 § 1, 2015; Ord. 2086 § 2, 2014; Ord. 2061 § 2, 2013; Ord. 2055 § 2, 2012; Ord. 2039 § 2, 2012; Ord. 2017 § 2, 2011; 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)

3. The existence of a mixture of housing types which provides a variation in the appearance of the development and allows a range of housing prices;
4. The existence of landscaping of a type, size and quantity which exceeds that of a standard residential development;
5. The existence of a topographical feature, including, but not limited to, a cliff or deep ravine, or extensive land area over 25 percent slope, of a magnitude which causes the WIS to be significantly greater than would be the case if the topographic feature was not considered; and
6. The offer to and acceptance by the city of land in excess of the parkland dedication requirements of Chapter 17.46 of this code. (Prior code § 2-2.3209(g))

18.76.160 Percentage open.

The percentage of the parcel to be developed which must remain in open space and/or public parkland shall be a minimum of 25 percent plus one and one-half times the WIS factor. Public parkland shall include only those areas which are offered for dedication as public parks and which are accepted by the city. (Prior code § 2-2.3209(h))

18.76.170 Grading control.

A. 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.

B. Restrictions. All areas indicated as natural open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise except that riding trails, hiking trails, picnic areas, stables and similar amenities may be placed in natural open space pursuant to the approval of an H-P-D permit.

C. Landscaping. The H-P-D permit shall include the planting of newly created banks or slopes for erosion control or to minimize their visual effect. (Prior code § 2-2.3209(i))

Chapter 18.78

WEST FOOTHILL ROAD CORRIDOR OVERLAY DISTRICT

Sections:

18.78.010 Purpose.
18.78.020 Creation of district.
18.78.030 Regulations applicable.
18.78.040 Properties not subject to the district's regulations.
18.78.050 Procedure.
18.78.060 Adoption of guidelines.
18.78.070 Regulations for lots adjoining Foothill Road.
18.78.080 Subdivision design.

18.78.010 Purpose.

The purpose of this chapter is to create a zoning overlay district with regulations which will implement the goals and policies of the general plan as they relate to maintaining the highly aesthetic, rural character of the Foothill Road corridor. This corridor is designated an "area of special concern" in the land use element, and the combination of residential densities allowed in the general plan is designed to form a complementary pattern of development and conservation which will provide Pleasanton with opportunities for custom homes, recreation, open space and preservation of the city's most visible resource. This zoning overlay district will assure that development along this corridor is consistent with the goals and policies of the general plan and thereby promotes and protects the health, safety, comfort, appearance and general welfare of the community. (Ord. 1468 § 1 (part), 1990)

18.78.020 Creation of district.

There is created a zoning overlay district known as the West Foothill Road corridor overlay district (hereinafter referred to as "district"), the boundaries of which are as follows:

All that land bounded as follows: Foothill Road on the east, the northern boundary of lands of East Bay Regional Park district approximately 1,500 feet south of Verona Road on the south, the 670-foot elevation contour line on the west except in the northwest corner where it shall be the property line betweens lands of Presley Homes and lands of Panganiban, and Dublin Canyon Road on the north excluding lands planned for commercial uses; all as more precisely shown on Exhibit A, attached to the ordinance codified in this chapter, and incorporated herein by reference, appearing on the maps following this chapter. (Ord. 1468 § 1 (part), 1990)

18.78.030 Regulations applicable.

A. The regulations applicable to the district contained in this chapter are in addition to the regulations otherwise applicable to the area within the district; provided, however, that where regulations conflict, the provisions of this chapter shall control.

B. In the event the underlying zoning of properties within the district is changed, this district shall remain in effect unless the rezoning action specifically removes the properties from this district. (Ord. 1468 § 1 (part), 1990)

18.78.040 Properties not subject to the district's regulations.

A. All properties within the district which have approved PUD development plans, prior to the adoption of this district, shall be allowed to develop in accordance with the provisions of their development plans. To the extent those development plans require subsequent discretionary city approval, the city reviewing boards and commissions shall attempt to meet the spirit of this district's regulations in the context of allowing development in accordance with the approved PUD development plans.

lic grounds owned or operated by the city or other public agency; any traffic-control device or sign or the support pole of the device or sign; or any street tree or flagpole.

F. "Sign" means and includes any bill, poster, placard, handbill, flyer, painting, sign or other similar object in any form whatsoever which contains printed or written matter in words, symbols or pictures, or in any combination thereof.

G. "Utility structure" means any utility pole, supporting structure or guy wire owned by a public or private utility company.

H. "Religious holiday banner" means any banner announcing a special religious holiday service for a religious group belonging to any religious institution. (Ord. 1574 § 1, 1992; prior code § 2-9.62)

18.100.040 Posting of political campaign signs, community event signs and religious holiday banners—Private property.

A. Maximum Size of Signs. No person shall post or cause to be posted on private property political campaign signs in an R district in excess of six square feet. No person shall post or cause to be posted on private property campaign signs in any other zoning district in excess of 16 square feet.

B. Maximum Area per Site. No person shall post or cause to be posted political campaign signs on an individual parcel of private property in an R district which in the aggregate exceeds 24 square feet. No person shall post or cause to be posted political campaign signs on an individual parcel of private property in any other zoning district which in the aggregate exceeds 64 square feet.

C. Maximum Size, Number and Duration of Religious Holiday Banners. No person shall post or cause to be posted on private property on sites exceeding 10,000 square feet in any zoning district, religious holiday banners in excess of 36 square feet. No person shall post or cause to be posted on private property, on sites 10,000 square feet or less in any zoning district, religious holiday banners in excess of six square feet. There shall be no more than one banner posted on the site of any religious institution during a special religious holiday. Religious holiday banners may be posted for a maximum of eight days during any special religious occasion not exceeding four such religious holidays each year.

D. Permission to Post. No person shall post or cause to be posted on private property political campaign signs, community event signs or religious holiday banners without first receiving permission from the property owner or any other person authorized by property owner to give permission to post such signs. (Ord. 1574 § 2, 1992; prior code § 2-9.63)

18.100.050 Posting of political campaign signs—Certain public property prohibited.

It is unlawful for any person to post, place or affix a political campaign sign or cause to do the same, on or to any public property or utility structure. It is also unlawful for any person to post, place or affix a political campaign sign or cause to do the same, on private property in a manner which poses a hazard to motorists, pedestrians or cyclists using the public rights-of-way, by blocking the view of traffic-control signs, devices or cross traffic or by protruding into the public right-of-way. (Prior code § 2-9.64)

18.100.060 Removal of political campaign signs—Time limits.

It is unlawful for any person to fail to remove a political campaign sign within five days after the election for which the sign was posted. (Ord. 1496 § 1, 1991; prior code § 2-9.65)

18.100.070 Community event signs—Time and size limits.

No person shall post or cause to be posted community event signs on private property, other than the property on which the event is to take place, more than 30 days prior to the event or fail to remove such sign within five days after the event. Size limits for community event signs shall be the same as those set forth in subsections A and B of Section 18.100.040 of this chapter for political campaign signs. Public agencies when posting community event signs on property owned by that agency are exempt from the limitation of this section. (Prior code § 2-9.66)

18.100.080 Removal of illegal signs.

The city manager or his or her authorized agents shall remove any sign found posted within the corporate limits of the city which is in violation of Sections 18.100.040, 18.100.050, 18.100.060 and 18.100.070 of this chapter. (Prior code § 2-9.67)

18.100.090 Authority of city manager.

For the purposes of removing illegal signs, the city manager or his or her authorized agents are empowered to enter upon the property where the signs are posted, and the city manager is further authorized to enlist the aid or assistance of any other department of the city and to secure legal process to the end that all such signs shall be expeditiously removed from any property where posted. (Prior code § 2-9.68)

18.100.100 Removal procedure.

When the city manager or his or her agent finds that a sign has been posted in violation of Sections 18.100.040, 18.100.050, 18.100.060 and 18.100.070 of this chapter, he or she shall document the nature of the violation and the location of the sign and shall remove said sign and store it in a safe location. If, after reasonable diligence, the city manager is unable to contact the candidate, committee or person responsible for the sign, he or she may dispense with the notice requirement and remove the sign, storing it in a safe location. Any sign posted six days after the election or event shall be deemed abandoned and the city manager may dispense with notice requirements. (Ord. 2120 § 1, 2015; prior code § 2-9.69)

18.100.110 Storage—Notice—Return.

If the city manager or his or her agents removes any sign, he or she shall keep a record of the location from which the sign was removed. He or she shall store the sign in a safe location for at least 20 days and shall notify the candidate, committee or person responsible for the posting of the sign, indicating the fact of removal and the location where it may be retrieved. If the city manager is unable to make telephone contact, he or she shall provide written notice, if the address of the candidate, committee or person is known or can reasonably be ascertained. The city manager shall return any political campaign sign upon the payment of a fee to cover the costs of removal, notice and storage. (Prior code § 2-9.70)

18.100.120 Sign removal charge.

The city shall be entitled to receive a fee for every sign removed by the city manager, to cover the expense of removal, notice and storage not to exceed $5.00 per sign. Where unusual effort is needed to remove a sign, such as the cutting or removal of supporting structures, use of aerial devices, towing of "trailer signs", or other unusual situations, the city shall collect from the person responsible a sum sufficient to cover the costs of equipment and hourly wages of employees so utilized. Where no return of the stored sign is requested, the city manager shall bill the person responsible for the sign. (Prior code § 2-9.71)

18.100.130 Persons responsible.

In a campaign for political office, the candidate for such office shall be deemed the person responsible for the posting of political campaign signs, unless he or she first notifies the city clerk and the city manager of another person who is responsible. In such case, the candidate shall provide the name, address, telephone number and signed consents of such other responsible person. In a campaign regarding a ballot measure, the president or chief officer of the committee supporting or opposing such ballot measure shall be deemed responsible, unless he or she first notifies the city clerk and the city manager of some other person responsible, in the manner described in this section. The candidate, or in the case of a ballot measure, the committee president or chief officer or other responsible person, if so designated, shall be liable to pay any fees or costs for the removal and storage of illegal signs, as set out in this chapter. Where a community event sign has been posted illegally, the president or chief officer of the group sponsoring the event shall be deemed the responsible person. (Prior code § 2-9.72)

18.100.140 Exception.

Billboards and other permanent signs used for advertising messages which are otherwise permitted by this code or exist as legal nonconforming uses are exempt from the regulations of this chapter. (Prior code § 2-9.73)

Chapter 18.103

BEEKEEPING

Sections:

18.103.010 Policy and purpose.
18.103.020 Definitions.
18.103.030 Application—Required information and plans.
18.103.040 Application—Fee.
18.103.050 Notice.
18.103.060 Public hearing.
18.103.070 Action of zoning administrator.
18.103.080 Standards.
18.103.090 Nuisance and enforcement.
18.103.100 Additional procedures.

18.103.010 Policy and purpose.

Beekeeping is beneficial for society as bees are essential for pollination, gardening, and food production. The purpose of this chapter is to promote public health, safety and welfare and to establish reasonable and uniform regulations for beekeeping: on land in the A (Agricultural) zoning district; for properties with detached, single-family homes located in the R-1 (One-Family Residential) zoning district and RM (Multi-Family Residential) zoning district; and for properties with detached, single-family homes located in the Downtown Specific Plan Area. (Ord. 2113 § 1, 2015)

18.103.020 Definitions.

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

A. "Absconding" or "abscond" means the permanent departure of the majority of the bees within a colony.

B. "Bee" means any stage of the common domestic honey bee, Apis Mellifera species.

C. "Beekeeper" means a person who keeps bees.

D. "Beekeeping" means the maintenance of bee colonies in hives.

E. "Brood" means immature bees, in various stages of development, before they emerge from their honeycomb cell.

F. "Flyway barrier" means the barrier used adjacent to the hive opening that forces bees to fly upwards.

G. "Hive" means a structure for the housing of a bee colony. Hives are typically a series of boxes stacked one on top of the other.

H. "Requeen" means to replace the queen bee in a colony with a younger and more productive queen.

I. "Robbing" means the taking of honey from a colony by other bees or insects.

J. "Swarming" or "swarm" means the movement of at least several hundred bees in a group from a colony. (Ord. 2113 § 1, 2015)

18.103.030 Application—Required information and plans.

An application for a permit to keep bees shall be filed with the zoning administrator on a form prescribed by the city and shall include the following information and maps:

A. Name and address of the applicant, who must be the proposed beekeeper;

B. Statement of whether the applicant is the owner or a tenant of the property on which the beekeeping is proposed to be located; and if a tenant, the name and contact information for the property owner, landlord, or management company; as well as the signature of the property owner, landlord or management company consenting to the application;

C. Address or description of the property on which the beekeeping is proposed to be located;

D. Statement of whether any applicable covenants, conditions or restrictions applicable to the property allow beekeeping;

E. Statement indicating the precise manner of compliance with each of the applicable provisions in Section 18.103.080, together with any other data pertinent to the granting of a permit;

F. Description and drawings of the proposed: (1) hive; (2) water source for bees; (3) flyway barrier;

G. An accurately scaled drawing of the parcel showing existing and proposed locations of streets, property lines, existing structures, landscaped areas, fences, walls, trees on-site and off-site that are located within close proximity of the proposed location of the hive, driveways, pedestrian walks, and the footprint drawing of the proposed location of the hive, water source, and flyway barrier;

H. The zoning administrator may require additional information, plans and drawings if necessary to determine whether the proposed beekeeping will comply with all of the applicable provisions of this chapter. The zoning administrator may authorize omission of any of the plans and drawings required by this section if he or she determines the information is not necessary. (Ord. 2113 § 1, 2015)

18.103.040 Application—Fee.

The application shall be accompanied by a fee established by resolution of the city council to cover the cost of processing the application. (Ord. 2113 § 1, 2015)

18.103.050 Notice.

No less than seven days prior to the date on which the decision will be made on the application, the city shall give notice of the proposed beekeeping by mail to all tenants and owners shown on the last equalized assessment roll as owning real property within 100 feet of the exterior boundaries of the parcel where beekeeping is proposed. (Ord. 2113 § 1, 2015)

18.103.060 Public hearing.

After the notice period runs, and if no administrative public hearing is requested (as described below), the zoning administrator (or designee) shall review the application and issue a decision to approve, approve with conditions, or deny the application. If, however, an administrative hearing is requested by the applicant or any interested person, the zoning administrator shall hold an administrative hearing. Subsequent to the hearing, the zoning administrator shall render a decision to approve, approve with conditions, or deny the application. (Ord. 2113 § 1, 2015)

18.103.070 Action of zoning administrator.

Any action of the zoning administrator is subject to the appeal provisions in Chapter 18.144. An application, if approved, is applicable only to the named beekeeper and parcel and does not run with the land. (Ord. 2113 § 1, 2015)

18.103.080 Standards.

Beekeeping shall only be allowed when the following regulations are met:

A. Hives shall only be allowed and maintained on land in the A zoning district, on properties with detached, single-family homes located in an R-1 zoning district and RM zoning district, and properties with detached, single-family homes located in the Downtown Specific Plan Area.

B. In the R-1 zoning district, RM zoning district, or Downtown Specific Plan Area zoning district, the beekeeper shall reside at the property where the hive is located.

C. In the R-1 zoning district, RM zoning district, or Downtown Specific Plan Area, hives shall be located at least five feet from the side and rear property lines. Hives are not allowed in the area between the front property line

and the single-family house. The location of hives on land in the A zoning district shall be subject to review on a case-by-case basis by the zoning administrator.

D. No more than two hives shall be allowed on detached, single-family properties located in the R-1 zoning district, RM zoning district, and Downtown Specific Plan Area; and no more than 10 hives shall be maintained within the A zoning district.

E. All bee colonies shall:

1. Be kept in inspectable hives, as determined by the city's code enforcement officer, animal services officer, and/or designee;

2. Have a convenient water source for the bees located on the subject site that is within at least 10 feet of the hive. Dripping faucets shall not be allowed; and

3. Have a flyway barrier at the opening of the hive that forces the bees to cross the property line at a minimum height of six feet. The top of the flyway barrier shall not be greater than seven feet tall and shall extend beyond either side of the beehive. The flyway barrier can be solid or vegetative, or use an alternative composition, as determined by the zoning administrator, with the dimensions and setbacks determined by the zoning administrator.

F. All hives shall:

1. Be kept in a usable condition at all times, as determined by the city's code enforcement officer, animal services officer, or designee;

2. Have removable frames/combs;

3. Be kept off the ground to prevent wood rot; and

4. Be inspected by the beekeeper no less than three times between March 1st and October 1st of each year to ensure that the conditions of the hive(s) are maintained and to prevent natural requeening that can lead to swarming.

G. Hive materials and/or equipment shall be stored in a sealed container or placed within a bee-proof enclosure. Beekeepers shall ensure that no burr comb, honey or related materials are dropped and/or left on the subject site such that it would attract pests.

H. Hive entrances shall face away from or be parallel to the nearest property line(s).

I. The maximum height of a hive, including the stand, shall not exceed four feet.

J. To prevent swarming, the beekeeper shall continuously manage the hive and requeen each hive at least once every two years.

K. No beekeeping permit shall be granted if the beekeeping will be detrimental to public health, safety, and welfare.

L. Notwithstanding the standards set forth above, the zoning administrator (or designee) has discretion to approve additional hives and/or hives in excess of four feet in height if the size, topography, or other physical conditions of the lot can accommodate such hives.

M. Upon securing a beekeeping permit, an inspection of the site and hives by the city's code enforcement officer, animal services officer, or their designee (collectively the inspector), is required at least one week, but no later than three weeks, after bringing the bees on-site. For such inspections, beekeeper shall be at the site to meet inspector. (Ord. 2113 § 1, 2015)

18.103.090 Nuisance and enforcement.

Bees or hives shall be considered a public nuisance when the beekeeper's bees swarm, the bees abscond, or the beekeeping does not conform to this code, or hives are abandoned by the beekeeper.

Where there is reasonable cause to believe that there exists a violation of this chapter which may cause health or safety hazards to residents and/or visitors, the city's code enforcement officer, or animal services officer, or their designee, is authorized to enter upon the property to inspect or to perform duties authorized by this chapter.

Any person who violates any provision of this chapter shall be subject to administrative fines and/or penalties pursuant to Chapter 18.140.

In addition, when there is reasonable cause to believe that there exists a violation of this chapter, or, if application is approved subject to conditions, upon failure to comply with conditions, an approved application shall be subject to suspension, modification or revocation. The zoning administrator shall hold a public hearing to consider any suspension, modification or revocation of an approved application. (Ord. 2113 § 1, 2015)

18.103.100 Additional procedures.

The regulations concerning effective date of the beekeeping permit, review or appeal, suspension and revocation, and new applications shall be those contained in this chapter.

Modifications requested by the beekeeper for a previously approved application shall be handled by the zoning administrator pursuant to the procedures set forth in this chapter for new applications. (Ord. 2113 § 1, 2015)

Chapter 18.104

HOME OCCUPATIONS

Sections:

18.104.010 Purpose.
18.104.020 Exempt occupations.
18.104.030 Required conditions.
18.104.040 Prohibited home occupations.
18.104.050 Zoning certificate required.
18.104.060 Planning commission review.
18.104.070 Modification of required conditions.
18.104.080 Suspension and revocation.

18.104.010 Purpose.

In order to allow the conduct of those types of occupations which traditionally take place in residences and which do not create the potential for changing the residential character of the neighborhood, the zoning administrator is empowered to grant home occupation permits. Home occupation permits can be granted by the zoning administrator only where all conditions listed in Section 18.104.030 of this chapter can be met. However, the planning commission, on appeal, can modify the conditions if it finds that such modifications will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity. (Prior code § 2-10.15)

18.104.020 Exempt occupations.

Where the following regulations are met, no permit shall be required for the conduct of an occupation in the home:

A. No one other than one resident of the dwelling shall be employed in the conduct of the home occupation.

B. The home occupation shall consist of office-type activities only (phone use, bookkeeping, drafting, etc.) and the production of minor arts and crafts items such as macramé, painting, tole painting, etc., if the proper safety equipment is provided.

C. No clients or customers shall come to the premises in connection with the home occupation.

D. The home occupation shall be conducted only in the dwelling and shall be clearly incidental and subordinate to the use of the structure as a dwelling.

E. There shall be no signing employed on the premises in conjunction with the home occupation.

F. The existence of the home occupation shall not be apparent beyond the boundaries of the site.

G. The residence address shall not be used in any advertising done in conjunction with the home occupation.

H. Materials, stock, supplies or equipment shall not be delivered to or picked up from the residence in connection with a home occupation except by the permittee.

I. Equipment, materials and supplies used for the home occupation shall consist of office-type items (typewriter, desk, files, etc.) and those used in the production of minor arts and crafts items (yarn, hemp, watercolors, oil paints, etc.) and shall not occupy more than one room of the dwelling.

J. The home occupation shall not create pedestrian or vehicular traffic in excess of the amount normally generated by residential uses allowed in the district. (Prior code § 2-10.16)

18.104.030 Required conditions.

Except as stipulated in Section 18.104.070 of this chapter, home occupations in A and R districts shall comply with the following regulations:

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. 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.

B. A use permit shall lapse and become void if the use is abandoned or discontinued for a continuous period of one year or more. Abandonment or discontinuance shall include cessation of a use regardless of intent to resume the

use. Indicia of abandonment or discontinuance may include, but not be limited to, lack of business license, no utility service, etc. (Ord. 2120 § 1, 2015; 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.

D. Preexisting conditional uses described in this section are subject to the lapse provisions in Section 18.124.100.B. (Ord. 2120 § 1, 2015; Ord. 2000 § 1, 2009; prior code § 2-11.12)

18.124.120 Modification of conditional use.

A. 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 related to findings. If requested by the applicant, the zoning administrator shall modify all existing conditional use permits for bars which are: (1) in the downtown hospitality central core area and downtown hospitality transition area; and (2) which are proposed to be consistent with the downtown hospitality guidelines, as determined by the zoning administrator.

B. For a bar or special downtown accessory entertainment use in the downtown hospitality central core and downtown hospitality transition area, if requested by the applicant, the zoning administrator shall modify all applicable sections of an existing conditional use permit related to subsequent planning commission review to include and be consistent with the following: notification of conditional use permit and noise standard violations verified by city enforcement staff shall be provided to the planning commission by city staff; the planning commission may schedule a public hearing to re-review the conditional use permit; and at the public hearing the planning commission may revoke or may modify a business' conditional use permit to require additional measures such as noise monitoring by the business owner if there was a noise violation.

C. If the zoning administrator approves a modification of a conditional use permit for a bar in the downtown hospitality central core area or downtown hospitality transition area, he or she shall notify the planning commission and city council of the modification within 10 days of the approval. (Ord. 2055 § 2, 2012; 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 subject to suspension or revocation. The planning commission shall hold a public hearing within a reasonable time to consider such suspension or revocation 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 suspend or 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 suspending or 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 suspended or 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. (Ord. 2065 § 1, 2013; prior code § 2-11.14)