

**Title 17**

**ZONING\***

**Chapters:**

- 17.02 Adoption of Zoning Plan**
- 17.04 Interpretation**
- 17.06 Establishment and Designation of Districts**
- 17.08 General Provisions**
- 17.10 R-1 Single-family Residential District**
- 17.11 R-1.5 Low-density Multifamily Residential District**
- 17.12 R-2 Medium-density Multifamily Residential District**
- 17.14 R-3 High-density Multifamily Residential District**
- 17.20 C-R Commercial Residential District**
- 17.22 C-C Community Commercial District**
- 17.24 C-1 Retail Central Business District**
- 17.26 C-2 General Commercial District**
- 17.28 H-C Highway Commercial District**
- 17.30 M Industrial District**
- 17.32 OS Open Space District**
- 17.34 PF Public Facility District**
- 17.36 Property Development Standards**
- 17.38 Special Standards and Requirements**
- 17.39 Density Bonus**
- 17.40 Nonconforming Uses**
- 17.41 Inclusionary Housing**
- 17.42 Zoning Compliance**

	<b>Certificates—Conditional Use</b>
	<b>Permits—Variances</b>
<b>17.43</b>	<b>Signs</b>
<b>17.44</b>	<b>Site Plan Review</b>
<b>17.45</b>	<b>Historic Resources</b>
<b>17.46</b>	<b>Appeals</b>
<b>17.48</b>	<b>Amendments</b>
<b>17.49</b>	<b>Art in Public Places Program</b>
<b>17.50</b>	<b>Enforcement</b>

\* Prior ordinance history: Ord. 438.

## Chapter 17.02

## ADOPTION OF ZONING PLAN

## Sections:

- 17.02.010 Short title.
- 17.02.020 Adoption of zoning plan.
- 17.02.030 Purpose.
- 17.02.040 Nature of plan.
- 17.02.050 Effect of plan.

**17.02.010 Short title.**

This title shall be known by the following short title: "THE CITY OF SOLEDAD ZONING ORDINANCE." (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.02.020 Adoption of zoning plan.**

There is adopted a precise zoning plan for the city, the plan being a districting plan, as provided by law. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.02.030 Purpose.**

The plan is adopted to implement the general plan, to provide rules and regulations for the development and use of land in an orderly manner, and to promote

and protect the public health, safety, peace, morals, comfort and general welfare. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.02.040 Nature of plan.**

The plan is a part of the general plan and consists of the establishment of various districts within the city wherein the use of land and buildings, and the spacing, placement, height and bulk of buildings and structures are regulated in a manner appropriate to the district in which those things are located. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.02.050 Effect of plan.**

Except as otherwise specifically provided in this title, no building shall be erected and no existing building shall be moved into, reconstructed, structurally altered, added to or enlarged, or moved, nor shall any land, building or premises be used or designed to be used for any purpose or in any manner not permitted in the zone in which such land, building or premises is located. (Ord. 445 § 2 (Exbt. A) (part), 1986)

## Chapter 17.04

### INTERPRETATION

#### Sections:

- 17.04.010 Grammatical interpretation.
- 17.04.020 General plan consistency.
- 17.04.030 Definitions.

#### 17.04.010 Grammatical interpretation.

Whenever in this title the context so requires, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa; words used in the present tense shall include the future; and words used in the singular shall include the plural. As used in this title the word "shall" is mandatory and the word "may" is permissive. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.04.020 General plan consistency.

The provisions of this title shall be interpreted and applied in a manner consistent with the general plan. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.04.030 Definitions.

As used in this title, unless the context otherwise indicates, the following words and phrases shall have the following meanings:

"Alley" means a public or private thoroughfare which affords only a secondary means of access to abutting property.

"Apartment" means any building or portion thereof which is designed and built for occupancy of four or more families. (See also "Dwelling, multiple.")

"Block" means all property fronting upon one side of a street, between intersecting and intercepting streets, or between a street and a railroad right-of-way, waterway, dead-end street or undivided land. An intercepting street shall determine only the boundary of the block on the side of a street which it intercepts.

"Boardinghouse" means a dwelling or part thereof, where lodging and/or meals for three or more persons not transients is provided for compensation.

"Building" means any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, animal or chattel and having a fixed location upon the ground.

"Building, accessory" means a subordinate building, including shelters of pools, the use of which is incidental to that of the main building on the same building site.

"Building, main" means a building in which is conducted the principal use of the lot and/or building site on which it is situated.

"Building site" means a lot or parcel of land, in single or joint ownership, occupied or to be occupied by a building or group of buildings, including all open spaces required by this title.

"Business" means the purchase, sale or other transaction involving the handling or disposition of any article, service, substance or commodity for livelihood or profit; or the management of offices,

structures and premises; or the maintenance and use of recreational or amusement enterprises; or the maintenance and use of offices and facilities by professions and trades rendering service.

"Condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property, together with a separate interest in space in a residential building, such as an apartment. A condominium may include in addition a separate interest in other portions of such real property. The word "condominium," as used in this title, also refers to townhouses, cooperative housing, and similar residential developments.

"Cooperative housing": see "Condominium."

"Court" means an open, unoccupied space, unobstructed to the sky, other than a yard, on the same lot with a building or group of buildings and which is bounded on three or more sides by such building or buildings.

"Director" means the planning director of the city.

"District" means a designated area of the city in which the use of land and buildings, and the spacing, placement, height and bulk of buildings and structures are regulated by this title according to the zoning classification assigned to the area.

"Dwelling" means a building or portion thereof designed and used exclusively for residential occupancy, including one-family, two-family, three-family dwellings and apartments, and multiple-family dwellings, but not including hotels, motels or boardinghouses.

"Dwelling, single-family" means a building containing not more than one kitchen, designed for or used to house not more than one family.

"Dwelling, two-family" or "duplex" means a building containing not more than two kitchens, designed and/or used to house not more than two families, living independently of each other.

"Dwelling, three-family" or "triplex" means a building containing not more than three kitchens, designed and/or used to house not more than three families, living independently of each other.

"Dwelling, multiple" means a building or portion thereof, used and designed as a residence for four or more families living independently of each other and doing their own cooking in the building, including apartment houses, apartment hotels, and flats, but not including motels, hotels or boardinghouses.

"Dwelling group" means a group of two or more dwellings occupying a parcel of land in one ownership and having a yard or court in common, but not including automobile courts.

"Family" means one or more persons occupying a premises and living as a single housekeeping unit (as distinguished from a group of transients occupying such premises), including residents of a boardinghouse or group home for persons with common disabilities or handicaps. A family includes all necessary employees of such family.

"Fence" means any structural device forming a physical barrier by means of hedge, wood, mesh, metal, chain, brick, stake, plastic or other similar materials.

"Garage" or "carport" means accessible and usable covered space for the storage of motor vehicles.

"Garage sale" means sale of secondhand consumer items on a private premises zoned for residential purposes, not requiring a business license, when held no more than four days at the same location during each calendar year.

"General plan" means the general plan of the city, including all of its elements.

"Guest house" means detached living quarters of a permanent type of construction and without kitchens or cooking facilities, for the use of which no compensation in any form is received or paid.

"Guest room" means attached or detached living quarters of a permanent type of construction without kitchen or cooking facilities, for the use of which compensation in some form is received or paid.

"Height of building" means the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof, excluding elevator rooms, ventilating and air-conditioning equipment.

"Highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. "Highway" includes street.

"Home occupation" means an occupation conducted in a dwelling unit which is clearly incidental and secondary to the use of a dwelling for residential purposes, causing no change in the outside appearance of the building or premises, generating no need for parking in greater volume than would normally be expected in a residential neighborhood, and involving no activity, process or equipment causing noise, vibration, glare,

fumes, odors or electrical interference, or any other significant disturbance of the peace and quiet of the neighborhood.

"Junkyard" means more than one hundred square feet of the area of any lot used for the storage of junk, including scrap metals, salvage or other scrap materials, or for the dismantling or wrecking of automobiles or other vehicles or machinery, whether for sale or storage.

"Kitchen" means a room or area with permanent cooking facilities and accommodations for dishwashing.

"Lot": see "building site." In a mobile home park, "lot" means a space allotted for occupancy by a mobile home.

"Lot coverage" means that percentage of the area of a lot that is covered by buildings or structures, including facilities for vehicle storage or vehicle access.

"Lot depth" means the average horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot lines.

"Lot line" means a line separating the front from a street, the side from a street adjoining property, the rear or side from an alley or street or adjoining property.

"Lot line, front" means the shortest dimension of a lot fronting on a street, irrespective of the direction in which the main entrance faces.

"Lot line, rear" means the lot boundary opposite or approximately opposite the lot front; in the case of a triangular or gore-shaped lot, or other irregular lot, a line ten feet in length, within the lot parallel to and at the maximum distance from the front line of the lot.

"Lot line, side" means any lot boundary not a front or rear lot line.

"Lot, through" means a lot having frontage on two parallel or approximately parallel streets.

"Lot width" means the horizontal distance between the side lot lines measured at right angles to the lot depth, at the required front setback line.

"Mobile home" means a vehicle or other structure fabricated off-site and transportable on permanently attached or detached wheels, or on a truck or other conveyance, intended for use as a dwelling unit, and containing a complete kitchen, sanitary facilities, and utilities for connection to on-site service connections. For purposes of Chapter 17.24 of this title only, "mobile home" includes modular dwellings intended for assembly on the site and not designed for subsequent or repeated relocation.

"Mobile home park" means a residential facility arranged or equipped for the accommodation of mobile homes, with spaces for such mobile homes available for rent, lease, or purchase, and providing utility services and other facilities, either separately or in common to mobile home spaces therein.

"Modular house": see "mobile home."

"Motel" or "hotel" means one or a group of two or more detached or semi-detached buildings containing guest rooms, with automobile parking space provided in connection therewith, which building or group of buildings is designed and used primarily for the accommodation of transient automobile travelers, provided that a maximum of twenty percent of the rooms, the guest room or rooms may contain mechanical equipment for the preparation or storage of food or beverages. These rooms are excluded from the fourteen-day transient occupancy limit and may be occupied continually for up to thirty consecutive days. A conditional

use permit shall be required for the conversion of existing units or an increase of the twenty percent limit for rooms to be equipped with mechanical equipment for the preparation or storage of food or beverages.

"Multiple dwelling": see "dwelling, multiple."

"Nonconforming use" means a use that does not conform to the regulations for the district in which it is situated.

"Office" means a business establishment for rendering of service or administration, but excluding retail sales.

"Parking space" means an accessible and usable space on the building site, or adjacent lot, at least nine feet by twenty feet, for the parking of one motor vehicle.

"Person" includes any individual, city, county, or city and county, partnership, firm, corporation, cooperative, association, trust or any other legal entity, including the state of California and the federal government.

"Plan line" means a line established by the city council for a proposed street or right-of-way.

"Rest home" means any premises licensed as a "long-term health care facility," as that term is defined in Section 1418 of the Welfare and Institutions Code of the State of California.

"Roominghouse": see "boardinghouse."

"Sanitarium" means a health station or retreat or other place where patients are housed, and where treatment is given, but excluding mental institutions or institutions for treatment of persons addicted to the use of drugs.

"Setback lines" means a line established by this title to govern the placement of buildings or structures with respect to lot lines, streets or alleys.

"Sign" means every sign, display board, poster, picture, wall graphic, graphic decorative display, map, banner, pennant, balloon, insignia, emblem or other device, with or without lettering, which is intended to advertise or attract

the attention of the public, including but not limited to clocks, barber poles and similar devices.

"Sign, freestanding" means any sign erected on one or more poles or posts or similar uprights which is not a part of any building or structure, other than a structure supporting the sign.

"Sign, projecting" means any sign, other than a wall sign, which is suspended from or supported by a building or wall and which projects outward therefrom; also any sign suspended under a marquee, awning, porch, walkway covering, or similar covering structure adjacent to a building.

"Sign, roof" means any sign erected upon or over the roof or parapet of any building, including the roof of any porch, walkway covering, or similar covering structure, and supported by or connected to the roof or parapet.

"Sign, temporary" means a sign consisting of any material and intended to be displayed for a short period of time, in no event to exceed sixty days.

"Sign, wall" means any sign applied to or mounted on the wall or vertical surface of a building or structure, or to the vertical surface of a marquee, awning, porch, walkway covering, or similar covering structure adjacent to a building or structure, in an essentially flat position, with the face of the sign parallel to the plane of the wall or vertical surface, including window signs.

"Sign, window" means any sign, other than a temporary sign, which is painted on, attached to, or placed or hung adjacent to, either the inside or the outside of a door or window; it does not apply to or include any display of merchandise,

products or materials appurtenant to the business conducted on the premises which is not attached or placed adjacent to a window, or to any noncommercial display or exhibit designed to be seen through a window.

"Street" means a public thoroughfare which affords principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except an alley as defined in this section.

"Street line" means the boundary between a street right-of-way and property.

"Structural alteration" means any change in the supporting members of a structure, such as bearing walls, columns, beams or girders.

"Structure" means anything constructed or erected, the use of which requires location on or in the ground, or attachment to something having location on the ground, including driveways, patios or parking spaces. "Structure" includes "building."

"Townhouse": see "condominium."

"Trailer court": see "mobile home park."

"Transient," when used to defined living accommodations, describes such accommodations when customarily used or furnished for a period of forty-eight hours or less but in no event longer than fourteen days.

"Use" means the purpose for which land or a building is designed, arranged, or intended or for which either land or building is or may be occupied or maintained.

"Use, accessory" means a use incidental or subordinate to, and devoted exclusively to the main use of a lot or a building located on the same lot.

"Use, nonconforming": see "nonconforming use."

"Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks.

"Yard" means the open space, other than a court, on the same lot with a building, which open space is unoccupied and unobstructed from the ground upward, except as otherwise permitted in Chapters 17.08, 17.10, 17.28 and 17.36 of this title.

"Yard, front" means a yard extending across the front of the lot between the side lot lines and measured from the front line of the lot to the nearest permitted line of the building; provided however, that if any official plan line has been established for the street upon which the lot faces, the front yard measurements shall be taken from such official plan line to the nearest permitted line of the building.

"Yard, rear" means a yard extending across the full width of the lot and measured between the rear line of the lot and the nearest line of the main building.

"Yard, side" means a yard between the side line of the lot and the nearest line of the building and extending from the front line of the lot to the rear yard. (Ord. 526 § 2 (Exbt. A), 1993; Ord. 445 § 2 (Exbt. A) (part), 1986)

**Chapter 17.06**

**ESTABLISHMENT AND DESIGNATION OF DISTRICTS**

**Sections:**

- 17.06.010** Establishment of districts.
- 17.06.020** Study areas.
- 17.06.030** Zoning map.
- 17.06.040** Boundaries.
- 17.06.050** Modification of boundaries.

**17.06.010 Establishment of districts.**

The several districts into which the city is divided are established and designated as follows:

Type of District	Designation
Single-family residential	R-1
Medium-density multifamily residential	R-2
High-density multifamily residential	R-3
Moblile home residential	M-H
Commercial residential	C-R
Community commercial	C-C
Retail central business	C-1
General service	C-2
Highway commercial	H-C
Industrial	M
Open space	OS
Public facility	PF

(Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.06.020 Study areas.**

All lands included within the boundaries of the city, as of or after the effective date of the ordinance codified in this title, which are not designated on the zoning map described in Section 17.06.030 as being included in any district, are and shall be designated as "SA" or study areas. Until such land is classified into one or more of the other districts, uses

conforming to the land use element of the general plan may be allowed. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.06.030 Zoning map.**

The boundaries of the districts designated and established by Section 17.06.010 of this title are shown on that certain map entitled "ZONING MAP OF THE CITY OF SOLEDAD," incorporated in this section and made a part of this title by reference as if fully set forth in this title. The map is on file in the office of the city clerk, and reference is hereby made to it for full particulars as to the location of the areas shown within the districts. The districts so shown are subject to the regulations contained in this title and each designated district is subject to the regulations prescribed in this title for that district. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.06.040 Boundaries.**

Where the exact boundaries of a district cannot be readily or exactly ascertained by reference to the zoning map, the boundary shall be deemed to be along the nearest street or lot line, as the case may be. If a district boundary line divides or splits a lot, the lot shall be deemed to be included within the district which is the more restrictive. The provisions of this section do not apply to acreage. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.06.050 Modification of boundaries.**

Changes in the boundaries of districts shall be made by ordinance in the manner provided in Chapter 17.48. The ordinance shall describe the area to be

changed either by lot and block number or by metes and bounds. After adoption of any ordinance changing any boundaries of any district, the city clerk shall

mark the zoning map to show the number and date of the adoption of the ordinance making such change. (Ord. 445 § 2 (Exbt. A) (part), 1986)

## Chapter 17.08

### GENERAL PROVISIONS

#### Sections:

- 17.08.010**    **Applicability.**
- 17.08.020**    **Interpretation by  
planning commission.**
- 17.08.030**    **Architectural review.**
- 17.08.040**    **Exception to height limits.**
- 17.08.050**    **Projections into required  
yard areas.**
- 17.08.060**    **Detached accessory  
structures in yard areas.**

#### **17.08.010**    **Applicability.**

All regulations in this title which pertain to the districts established in Chapter 17.06 are subject to the general provisions, conditions and exceptions contained in this chapter. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.08.020**    **Interpretation by planning commission.**

Whenever there is a question regarding the interpretation of the provisions of this title or their application to any specific case or situation, the planning commission shall interpret the intent of this title by written decision, and such interpretation thereafter shall be followed in applying the provisions, subject to appeal to the city council by any interested person. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.08.030**    **Architectural review.**

The planning commission shall act as, or it may appoint three or more of its members to act as, an architectural review committee to review and approve the architectural and general appearance of buildings, structures

and grounds in accordance with the provisions of this title. No permit shall be issued in any case where architectural review is required until such review has been conducted and plans for the project have been approved by the committee; provided, that minor changes in an approved plan may be made when approved by the planning director. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.08.040**    **Exception to height limits.**

Where chimneys, cupolas, steeples, poles, monuments, storage tanks or towers, windmills, and similar structures and mechanical appurtenances are permitted in a district, height limits may be exceeded upon the securing of a use permit in each case. This section does not apply to signs. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.08.050**    **Projections into required yard areas.**

Building features such as awnings, cornices, and eaves may extend not more than two feet into any required yard. Fireplaces not exceeding six feet in breadth may extend not more than two feet into a required yard. Open, uncovered porches or landings which are raised less than thirty inches above the nearest lot line's natural elevation, and stairs, may extend not more than two feet into any required side yard, nor more than six feet into any required rear or front yard. In any such case a lesser setback may be allowed upon the securing of a use permit; provided, however, that in no case shall any such projection extend closer than three feet to the nearest lot line. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.08.060 Detached accessory  
structures in yard areas.**

Detached accessory structures, including garages may occupy rear and interior side yards subject to site plan approval by the planning director and when in compliance with the Uniform Building Code as determined by the building official and provided that no accessory structure shall extend into any public utility easement. On a corner lot no detached accessory structure shall be located so as to encroach on the half of the lot nearest the street side yard. (Ord. 578 § 1, 2001)

## Chapter 17.10

### R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

#### Sections:

- 17.10.010 Purpose.
- 17.10.020 Permitted uses.
- 17.10.030 Conditional uses.
- 17.10.040 Property development standards.

#### 17.10.010 Purpose.

The R-1 district is intended to provide for the development of single-family residential homes on lots not less than ~~five~~ <sup>six</sup> thousand square feet in area, not more than one dwelling unit permitted on any lot, except within planned developments. All regulations for this district are deemed necessary for the protection of the quality of the residential environment and for the securing of the health, safety and general welfare of the residents. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.10.020 Permitted uses.

The following uses shall be permitted in the R-1 district. All uses shall be subject to the property development standards in Section 17.10.040:

- A. One-family dwelling units, not more than one dwelling per lot;
- B. Accessory buildings, including garages;
- C. Private greenhouses and horticultural collections, flower and vegetable gardens;
- D. Home occupations, subject to Section 17.38.140;
- E. Temporary tract offices and model homes, in the tract being developed;
- F. Day nursery, small;

G. Mobile home on a permanent foundation, subject to Section 17.38.210;

H. Swimming pools subject to Section 17.38.320. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.10.030 Conditional uses.

The following uses may be permitted subject to a conditional use permit:

- A. Antennas for personal use subject to Section 17.38.020;
- B. Churches and parochial schools;
- C. Country clubs and golf courses;
- D. Day nursery, commercial (see Section 17.38.060);
- E. Day nursery, institutional (see Section 17.38.060);
- F. Day nursery, large (see Section 17.38.060);
- G. Microwave relay structures;
- H. Private schools;
- I. Public schools;
- J. Public libraries;
- K. Electric distribution substations;
- L. Planned residential development, including mobile home parks subject to Section 17.38.230;
- M. Swimming lessons, large group, subject to Section 17.38.310;
- N. Parks, except those included in the overall design of a subdivision;
- O. Yard setback reduction or lot dimension modifications for energy conservation purposes on multiple lots;
- P. Second residential units, subject to Section 17.38.260;
- Q. Condominiums, subject to Section 17.38.050;
- R. Welfare and charitable organizations. (Ord. 549 § 2, 1996; Ord. 466 § 5, 1988; Ord. 445 § 2 (Exbt. A) (part), 1986)

### 17.10.040 Property development standards.

The following property development standards and those in Chapters 17.36 and 17.38 apply to all lands and structures in the R-1 district:

#### A. Lot Area.

1. Each lot shall have a minimum net area of six thousand square feet, except as provided in this section. A nonconforming lot of record under separate ownership at the time it became nonconforming may be used for or occupied by any use permitted in this district.

2. If, on the effective date of the ordinance codified in this title, two or more nonconforming lots, each with a separate and distinct number or other designation on an official map or approved record of survey recorded in the office of the county recorder, or delineated on a recorded subdivision map on file with the city, and abutting at least one public street or right-of-way are held in separate ownership:

a. Each such lot may be used as a separate lot if it contains at least six thousand square feet of lot area and has a minimum width of fifty feet.

b. If three or more such nonconforming lots are held in separate ownership, they may be divided into lots each of which contains at least six thousand square feet of lot area and has a minimum width of fifty feet. If such division requires a change of any existing lot line, a parcel map shall be filed with the planning director.

B. Lot Dimensions. All lots created after the effective date of the ordinance codified in this title shall comply with the following minimum standards and lots

existing as of that effective date may not be reduced below these standards. Each dimension is minimum only. One or both shall be increased to attain the minimum lot area required.

#### 1. Width:

a. Interior lots shall have a minimum width of fifty feet.

b. Corner lots shall have a minimum width of sixty-five feet.

c. Lots siding on freeways or railroad rights-of-way shall have a minimum width of eighty feet.

d. Curve lots and cul-de-sac lots shall have a minimum street frontage width of forty feet.

#### 2. Depth:

a. Lots facing on local street shall have a minimum depth of one hundred feet.

b. Lots facing on a major street as shown on the circulation element of the general plan shall have a minimum depth of one hundred twenty feet.

c. Lots backing on freeways or railroad rights-of-way shall have a minimum depth of one hundred thirty feet.

C. Population Density. The density shall not exceed one dwelling for each six thousand square feet of lot area. For planned developments density shall be calculated on gross lot area minus public streets.

#### D. Building Height.

1. No main building or structure erected in this district shall have a height greater than two stories, not to exceed thirty feet.

2. No accessory building erected in this district shall have a height greater than one story, not to exceed fourteen feet.

#### E. Yards.

1. Front yard:

a. Each lot shall have a front yard of not less than twenty feet extending across the full width of the lot. The front yard shall be thirty feet for lots required to have a depth of one hundred twenty feet by paragraph (B)(2)(b) of this section.

b. Lots fronting on a cul-de-sac turnaround shall have a front yard of not less than fifteen feet.

c. The planning commission may require the staggering of setback, with a variation of up to three feet between houses. In no case shall a setback of less than fifteen feet be allowed, except on cul-de-sacs, where the planning commission may approve a setback of ten feet as part of the total development plan of a subdivision.

d. In situations where four or more lots have been improved with buildings, the required setback is the average of the improved lots, if the setback is less than the stated requirement.

2. Side yard:

a. Each lot shall have a side yard on each side of not less than five feet except for special conditions treated in this subdivision.

b. When siding on an existing alley, a main building shall be located not less than thirty feet from the opposite side of the alley.

c. On corner lots, unless otherwise specified in this title, the side yard abutting the street shall be not less than ten feet in width.

d. Where a dwelling unit is located on a lot so that the main entrance is located on the side of the building, the required side yard setback shall be not less than ten feet to such entrance.

e. In situations where the entrance to a covered parking space faces an interior side property line, the required side yard setback from the side property line shall be twenty-five feet.

f. In situations where the entrance to a covered parking space faces a street-side property line, the required setback shall be twenty feet from the street-side property line to the covered parking space.

3. Rear yard: Each lot shall have a rear yard extending across the full width of the lot of not less than ten feet, provided that a minimum of one thousand square feet of open space is maintained to the side or rear of the main dwelling or in an "L" or "U" design; otherwise, twenty feet shall be provided.

F. Space Between Buildings.

1. Unless attached to the main building, accessory buildings shall be a minimum of six feet from the main building. However, the accessory building may be connected to the main building by means of a breezeway open to two sides consisting of a common roof using the same roofing materials as the main building.

2. Where an accessory building is used for covered parking and where the garage is located within the area defined by the projection of the side lines of any main building, and where vehicular access to the garage faces any main building and falls entirely or in part within that area, the accessory building shall not be less than twenty-five feet from the main building.

3. Where a lot abuts upon an alley, garages having vehicular access from the alley shall be located not less than twenty-five feet from the opposite side of the alley.

G. Lot Coverage. Maximum lot coverage by buildings and structures shall not exceed forty percent of the total lot area.

H. Fences, Hedges and Walls. Fences, including walls and hedges, not exceeding three feet in height, may occupy any yard area. Fences, hedges and wall fences up to six feet in height are allowed in street side yards where:

1. Residential lots abut nonresidential uses or zoned property;

2. Where street sideyard abuts another street side yard subject to sight distance requirements (Section 17.36.010(C)).

Fences or other structures over six feet in height to enclose tennis courts or similar areas located on the rear half of a lot may be allowed, subject to the approval of a conditional use permit.

I. Off-street Parking. Section 17.36.030 applies.

J. Access. There shall be vehicular access from a dedicated and improved street or recognized alley to the required off-street parking facilities.

K. Signs. Section 17.36.040 applies. (Ord. 523 § 2 (part), 1993; Ord. 487 § 2, 1990; Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.10.050 Site plan review.**

Before any building or structure is erected on any lot in this district, a site plan shall be submitted to and approved by the planning director. (Ord. 445 § 2 (Exbt. A) (part), 1986)

## Chapter 17.11

R-1.5 LOW-DENSITY MULTIFAMILY  
RESIDENTIAL DISTRICT

## Sections:

17.11.010	Purpose.
17.11.020	Permitted uses.
17.11.030	Conditional uses.
17.11.040	Property development standards.
17.11.050	Site plan review.

**17.11.010 Purpose.**

The R-1.5 district is intended to provide for residential development not to exceed one dwelling unit per four thousand five hundred square feet of lot area. All regulations for this district are deemed necessary for the protection of the quality of the residential environment and for the securing of the health, safety and general welfare of the residents. (Ord. 498 (part), 1991)

**17.11.020 Permitted uses.**

The following uses shall be permitted in the R-1.5 district. All uses shall be subject to the property development standards in Section 17.11.040 of this chapter:

- A. Single-family dwellings and duplexes, provided that the total number of existing and proposed units does not exceed two on a lot;
- B. Accessory buildings, including garages;
- C. Private greenhouses and horticultural collections, flower and vegetable gardens;
- D. Home occupations, subject to Section 17.38.130 of this title;
- E. Day nursery, small;
- F. Swimming pools subject to Section 17.38.330 of this title. (Ord. 498 (part), 1991)

**17.11.030 Conditional uses.**

The following uses may be permitted in the R-2 district subject to a conditional use permit:

- A. Antennas for personal use subject to Section 17.38.010;
- B. Churches and parochial schools;
- C. Country clubs and golf courses;
- D. Day nursery, commercial (see Section 17.38.060 of this title);
- F. Day nursery, large (see Section 17.38.060 of this title);
- G. Microwave relay structures;
- H. Private schools;
- I. Public schools;
- J. Public libraries;
- K. Electric distribution substations;
- L. Swimming lessons, large group, subject to Section 17.38.370 of this title;
- M. Civic and social clubs of two hundred fifty or less members;
- N. Parks, except those included in the overall design of a subdivision;
- O. Yard setback reduction or lot dimension modifications for energy conservation purposes on multiple lots;
- P. Condominiums, subject to Section 17.38.050 of this title. (Ord. 498 (part), 1991)

**17.11.040 Property development standards.**

The following property development standards and those in Chapters 17.36 and 17.38 of this title apply to all lands and structures in the R-1.5 district:

**A. Lot Area.**

1. Each lot shall have a minimum net area of six thousand square feet, except as provided in this section. A nonconforming lot or record under separate ownership at the time it became nonconforming may be used for or occupied by any use permitted in this district.

2. If, on the effective date of the ordinance codified in this chapter, two or more nonconforming lots, each with a separate and distinct number or other designation on an official map or approved record of survey recorded in the office of the county recorder, or delineated on a recorded subdivision map on file with the city,

*mistake*

and abutting at least one public street or right-of-way are held in separate ownership:

- a. Each such lot may be used as a separate lot if it contains at least six thousand square feet of lot area and has a minimum width of fifty feet.
- b. If three or more such nonconforming lots are held in separate ownership, they may be divided into lots each of which contains at least six thousand square feet of lot area and has a minimum width of fifty feet. If such division requires a change of any existing lot line, a parcel map shall be filed with the planning director.

B. Lot Dimensions. All lots created after the effective date of the ordinance codified in this chapter shall comply with the following minimum standards and lots existing as of that effective date may not be reduced below these standards. Each dimension is minimum only. One or both shall be increased to attain the minimum lot area required.

1. Width:

- a. Interior lots shall have a minimum width of fifty feet.
- b. Corner lots shall have a minimum width of sixty-five feet.
- c. Lots siding on freeways or railroad rights-of-way shall have a minimum width of eighty feet.
- d. Curve lots and cul-de-sac lots shall have a minimum street frontage width of forty feet.

2. Depth:

- a. Lots facing on a local street shall have a minimum depth of one hundred feet.
- b. Lots facing on a major street as shown on the circulation element of the

general plan shall have a minimum depth of one hundred twenty feet.

c. Lots backing on freeways or railroad rights-of-way shall have a minimum depth of one hundred thirty feet.

C. Population Density. Density shall not exceed two dwelling units for each lot but not to exceed one dwelling unit for each four thousand five hundred square feet of area in a lot.

D. Building Height.

1. No main building or structure erected in this district shall have a height greater than two stories, not to exceed thirty feet.

2. No accessory building erected in this district shall have a height greater than one story, not to exceed fourteen feet.

E. Yards.

1. Front yard.

a. Each lot shall have a front yard of not less than fifteen feet extending across the full width of the lot.

b. Curve lots and cul-de-sac lots shall have a front yard of not less than fifteen feet.

c. The planning commission may approve a setback of ten feet on cul-de-sacs as part of the total development plan of a subdivision.

2. Side yard: The provisions of the R-1 district apply.

3. Rear yard: Each lot shall have a rear yard extending across the full width of the lot of not less than fifteen feet.

F. Space Between Buildings. In addition to the R-1 district requirements the following shall apply: Between main buildings the sum of the height of any two adjacent buildings, divided by two, but in no case less than twenty feet.

G. Lot Coverage. Maximum lot coverage by buildings and structures shall not exceed fifty percent of the total area.

H. Fences, Hedges and Walls. Fences, including walls and hedges, not exceeding three feet in height, may occupy any yard area. Fences, hedges and wall fences up to six feet in height are allowed in street side yards where:

1. Residential lots abut nonresidential uses or zoned property;

2. Where street sideyard abuts another street side yard subject to sight distance requirements (Section 17.36.010[C]).

Fences or other structures over six feet in height to enclose tennis courts or similar areas located on the rear half of a lot may be allowed, subject to the approval of a conditional use permit.

I. Off-street Parking. Section 17.36.010 of this title applies.

J. Access. There shall be vehicular access from a dedicated and improved street or recognized alley to the required off-street parking facilities.

K. Signs. Section 17.36.030 of this title applies.

L. Utilities. Section 17.38.330 of this title applies. (Ord. 523 § 2 (part), 1993; Ord. 498 (part), 1991)

#### **17.11.050 Site plan review.**

Before any building or structure is erected on any lot in this district, a site plan shall be submitted to and approved by the planning director in accordance with Chapter 17.44 of this title. (Ord. 498 (part), 1991)

## Chapter 17.12

**R-2 MEDIUM-DENSITY  
MULTIFAMILY RESIDENTIAL  
DISTRICT**

## Sections:

17.12.010	Purpose.
17.12.020	Permitted uses.
17.12.030	Conditional uses.
17.12.040	Property development standards.

**17.12.010 Purpose.**

The R-2 district is intended to provide for residential development not to exceed one dwelling unit per three thousand five hundred square feet of lot area. All regulations for this district are deemed necessary for the protection of the quality of the residential environment and for the securing of the health, safety and general welfare of the residents. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.12.020 Permitted uses.**

The following uses shall be permitted in the R-2 district. All uses shall be subject to the property development standards in Section 17.12.040:

A. Single-family dwellings, duplexes and triplexes, provided that the total number of existing and proposed units does not exceed three;

B. Accessory buildings, including garages;

C. Private greenhouses and horticultural collections, flower and vegetable gardens;

D. Home occupations, subject to Section 17.38.130;

E. Day nursery, small;

F. Swimming pools subject to Section 17.38.330. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.12.030 Conditional uses.**

The following uses may be permitted in the R-2 district subject to a conditional use permit:

A. Antennas for personal use subject to Section 17.38.010;

B. Churches and parochial schools;

C. Country clubs and golf courses;

D. Day nursery, commercial (see Section 17.38.060);

E. Day nursery, institutional (see Section 17.38.060);

F. Day nursery, large (see Section 17.38.060);

G. Microwave relay structures;

H. Private schools;

I. Public schools;

J. Public libraries;

K. Electric distribution substations;

L. Planned residential development, including mobile home parks subject to Section 17.38.230;

M. Second residential units, subject to Section 17.38.260;

N. Swimming lessons, large group, subject to Section 17.38.370;

O. Civic and social clubs of two hundred fifty or less members;

P. Parks, except those included in the overall design of a subdivision;

Q. Yard setback reduction or lot dimension modifications for energy conservation purposes on multiple lots;

R. Condominiums, subject to Section 17.38.050. (Ord. 466 § 6, 1988; Ord. 445 § 2 (Exbt. A) (part), 1986)

### 17.12.040 Property development standards.

The following property development standards and those in Chapters 17.36 and 17.38 apply to all lands and structures in the R-2 district:

#### A. Lot Area.

1. Each lot shall have a minimum net area of five thousand square feet, except as provided in this section. A nonconforming lot of record under separate ownership at the time it became nonconforming may be used for or occupied by any use permitted in this district.

2. If, on the effective date of the ordinance codified in this title, two or more nonconforming lots, each with a separate and distinct number or other designation on an official map or approved record of survey recorded in the office of the county recorder, or delineated on a recorded subdivision map on file with the city, and abutting at least one public street or right-of-way are held in separate ownership:

a. Each such lot may be used as a separate lot if it contains at least five thousand square feet of lot area and has a minimum width of fifty feet.

b. If three or more such nonconforming lots are held in separate ownership, they may be divided into lots each of which contains at least five thousand square feet of lot area and has a minimum width of fifty feet. If such division requires a change of any existing lot line, a parcel map shall be filed with the planning director.

B. Lot Dimensions. All lots created after the effective date of the ordinance codified in this title shall comply with the following minimum standards and lots existing as of that effective date may not

be reduced below these standards. Each dimension is minimum only. One or both shall be increased to attain the minimum lot area required.

#### 1. Width:

a. Interior lots shall have a minimum width of fifty feet.

b. Corner lots shall have a minimum width of sixty-five feet.

c. Lots siding on freeways or railroad rights-of-way shall have a minimum width of eighty feet.

d. Curve lots and cul-de-sac lots shall have a minimum street frontage width of forty feet.

#### 2. Depth:

a. Lots facing on local street shall have a minimum depth of one hundred feet.

b. Lots facing on a major street as shown on the circulation element of the general plan shall have a minimum depth of one hundred twenty feet.

c. Lots backing on freeways or railroad rights-of-way shall have a minimum depth of one hundred thirty feet.

C. Population Density. Density shall not exceed twelve dwelling units for each acre of building site area, or one dwelling unit for each three thousand five hundred square feet of area in a building site of less than one acre.

#### D. Building Height.

1. No main building or structure erected in this district shall have a height greater than two stories, not to exceed thirty feet.

2. No accessory building erected in this district shall have a height greater than one story, not to exceed fourteen feet.

#### E. Yards.

##### 1. Front yard:

a. Each lot shall have a front yard of not less than fifteen feet extending across the full width of the lot.

b. Curve lots and cul-de-sac lots shall have a front yard of not less than fifteen feet.

c. The planning commission may approve a setback of ten feet on cul-de-sacs as part of the total development plan of a subdivision.

2. Side yard: The provisions of the R-1 district apply.

3. Rear yard: Each lot shall have a rear yard extending across the full width of the lot of not less than fifteen feet.

F. Space Between Buildings. In addition to the R-1 requirements the following shall apply: Between main buildings the sum of the height of any two adjacent buildings, divided by two, but in no case less than twenty feet.

G. Lot Coverage. Maximum lot coverage by buildings and structures shall not exceed sixty percent of the total lot area.

H. Fences, Hedges and Walls. Fences, including walls and hedges, not exceeding three feet in height, may occupy any yard area. Fences, hedges and wall fences up to six feet in height are allowed in street side yards where:

1. Residential lots abut nonresidential uses or zoned property;

2. Where street sideyard abuts another street side yard subject to sight distance requirements (Section 17.36.010[C]).

Fences or other structures over six feet in height to enclose tennis courts or similar areas located on the rear half of a lot may be allowed, subject to the approval of a conditional use permit.

I. Off-street Parking. Section 17.36.020 applies.

J. Access. There shall be vehicular access from a dedicated and improved street or recognized alley to the required off-street parking facilities.

K. Signs. Section 17.36.030 applies.

L. Utilities. Section 17.38.330 applies. (Ord. 523 § 2 (part), 1993; Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.12.050 Site plan review.

Before any building or structure is erected on any lot in this district, a site plan shall be submitted to and approved by the planning director in accordance with Chapter 17.44. (Ord. 445 § 2 (Exbt. A) (part), 1986)

## Chapter 17.14

### R-3 HIGH-DENSITY MULTIFAMILY RESIDENTIAL DISTRICT

#### Sections:

- 17.14.010 Purpose.
- 17.14.020 Permitted uses.
- 17.14.030 Conditional uses.
- 17.14.040 Property development standards.
- 17.14.050 Site plan review.

#### 17.14.010 Purpose.

The R-3 district is intended to provide for residential development not to exceed one dwelling unit per three thousand square feet of lot area. All regulations for this district are deemed necessary for the protection of the quality of the residential environment and for the securing of the health, safety and general welfare of the residents. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.14.020 Permitted uses.

The following uses shall be permitted in the R-3 district. All uses shall be subject to the property development standards in Section 17.14.040:

- A. Single-family dwellings, duplexes and triplexes, provided that the total number of existing and proposed units does not exceed three;
- B. Accessory buildings, including garages;
- C. Private greenhouses and horticultural collections, flower and vegetable gardens;
- D. Home occupations, subject to Section 17.38.140;

- E. Day nursery, small;
- F. Day nursery, large;
- G. Boardinghouses. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.14.030 Conditional uses.

The following uses may be permitted in the R-3 district subject to a conditional use permit:

- A. Antennas for personal use subject to Section 17.38.010;
- B. Churches and parochial schools;
- C. Country clubs and golf courses;
- D. Day nursery, institutional (see Section 17.38.060);
- E. Day nursery, commercial (see Section 17.38.060);
- F. Microwave relay structures;
- G. Private schools;
- H. Public schools;
- I. Public libraries;
- J. Electric distribution substations;
- K. Planned residential development, including mobile home parks subject to Section 17.38.230;
- L. Swimming lessons, large group, subject to Section 17.38.310;
- M. Civic and social clubs of two hundred fifty or less members;
- N. Parks;
- O. Yard setback reduction or lot dimension modifications for energy conservation purposes on multiple lots. (Ord. 466 § 7, 1988; Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.14.040 Property development standards.

The following property development standards and those in Chapters 17.36

17.14.040

and 17.38 apply to all lands and structures in the R-3 district:

A. Lot Area.

1. Each lot shall have a minimum net area of six thousand square feet, except as provided in this section. A nonconforming lot of record under separate ownership at the time it became nonconforming may be used for or occupied by any use permitted in this district.

2. If, on the effective date of the ordinance codified in this title, two or more nonconforming lots, each with a separate and distinct number or other designation on an official map or approved record of survey recorded in the office of the county recorder, or delineated on a recorded subdivision map on file with the city, and abutting at least one public street or right-of-way are held in separate ownership:

a. Each such lot may be used as a separate lot if it contains at least five thousand square feet of lot area and has a minimum width of fifty feet.

b. If three or more such nonconforming lots are held in separate ownership, they may be divided into lots each of which contains at least five thousand square feet of lot area and has a minimum width of fifty feet. If such division requires a change of any existing lot line, a parcel map shall be filed with the planning director.

B. Lot Dimensions. All lots created after the effective date of the ordinance codified in this title shall comply with the following minimum standards and lots existing as of that effective date may not be reduced below these standards. Each dimension is minimum only. One or both shall be increased to attain the minimum lot area required.

1. Width:

a. Interior lots shall have a minimum width of fifty feet.

b. Corner lots shall have a minimum width of sixty-five feet.

c. Lots siding on freeways or railroad rights-of-way shall have a minimum width of eighty feet.

d. Curve lots and cul-de-sac lots shall have a minimum street frontage width of forty feet.

2. Depth:

a. Lots facing on local street shall have a minimum depth of one hundred feet.

b. Lots facing on a major street as shown on the circulation element of the general plan shall have a minimum depth of one hundred twenty feet.

c. Lots backing on freeways or railroad rights-of-way shall have a minimum depth of one hundred thirty feet.

C. Population Density. Density shall not exceed sixteen dwelling units for each acre of building site area, or one dwelling unit for each three thousand square feet of area in a building site of less than one acre. Density may be increased to a maximum of twenty-two units per acre subject to the approval of a conditional use permit. A minimum of three hundred square feet of open area shall be provided per dwelling unit. That area shall be designed to be usable for the residents.

D. Building Height.

1. No main building or structure erected in this district shall have a height greater than two stories, not to exceed thirty feet.

2. No accessory building erected in this district shall have a height greater than one story, not to exceed fourteen feet.

E. Yards.

1. Front yard:
    - a. Each lot shall have a front yard of not less than fifteen feet extending across the full width of the lot.
    - b. Curve lots and cul-de-sac lots shall have a front yard of not less than fifteen feet.
    - c. The planning commission may approve a setback of ten feet on cul-de-sacs as part of the total development plan of a subdivision.
  2. Side yard:
    - a. Each lot shall have a side yard on each side of not less than five feet except for special conditions treated in this subdivision.
    - b. When siding on an existing alley, a main building shall be located not less than thirty feet from the opposite side of the alley.
    - c. On corner lots, unless otherwise specified in this title, the side yard abutting the street shall be not less than ten feet in width.
  3. Rear yard: Each lot shall have a rear yard extending across the full width of the lot of not less than fifteen feet.
- F. Space Between Buildings.
1. Accessory buildings shall be a minimum of six feet from a main building.
  2. Where an accessory building is used for covered parking and where the garage is located within the area defined by the projection of the side lines of any main building, and where vehicular access to the garage faces any main building and falls entirely or in part within that area, the accessory building shall not be less than twenty-five feet from the main building.
  3. Where a lot abuts upon an alley, garages having vehicular access from the alley shall be located not less than twenty-five feet from the opposite side of the alley.

4. Minimum space between main buildings is the sum of the height of any two adjacent buildings, divided by two, but in no case less than twenty feet.

5. Between a side property line and the entrance side of single-row dwelling groups, the minimum space is fifteen feet.

G. Lot Coverage. Maximum lot coverage by buildings and structures shall not exceed sixty percent of the total lot area.

H. Fences, Hedges and Walls. Fences, including walls and hedges, not exceeding three feet in height, may occupy any yard area. Fences, hedges and wall fences up to six feet in height are allowed in street side yards where:

1. Residential lots abut nonresidential uses or zoned property;
2. Where street sideyard abuts another street side yard subject to sight distance requirements (Section 17.36.010[C]).

Fences or other structures over six feet in height to enclose tennis courts or similar areas located on the rear half of a lot may be allowed, subject to the approval of a conditional use permit.

I. Off-street Parking. Section 17.36.020 applies.

J. Access. There shall be vehicular access from a dedicated and improved street or recognized alley to the required off-street parking facilities.

K. Signs. Section 17.36.030 applies.

L. Utilities. Section 17.38.330 applies. (Ord. 523 § 2 (part), 1993; Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.14.050 Site plan review.

Before any building or structure is erected or moved on any lot in the R-3 district, a site plan shall be submitted to

and approved by the city in accordance  
with Chapter 17.44. (Ord. 445 § 2 (Exbt.  
A) (part), 1986)

## Chapter 17.20

### C-R COMMERCIAL RESIDENTIAL DISTRICT

#### Sections:

- 17.20.010 Purpose.  
 17.20.020 Conditional uses.  
 17.20.040 Property development standards.  
 17.20.050 Site plan review.

#### 17.20.010 Purpose.

The C-R district is intended to provide for both residential and light commercial activities within the downtown specific plan area and in neighborhood commercial zoning districts as an overlay zone. Mixed use residential-commercial may be considered, providing specific findings are made per Section 17.20.040(M). (Ord. 609 § 2, 2004; Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.20.020 Conditional uses.

The following uses when conducted wholly within a building, are permitted in a C-R district subject to the approval of a conditional use permit in each case.

- A. Residential uses: single-family, two-family and multifamily dwellings;  
 B. Nonresidential uses:
1. Antique shops,
  2. Apparel shops,
  3. Artist studios and galleries,
  4. Barber and hair salons,
  5. Bookstore,
  6. Boutiques,
  7. Craftsman,
  8. Day nursery, commercial,
  9. Dressmaking or millinery shops,
  10. Jewelry,
  11. Photographic studios and supplies,

12. Professional and administrative offices,
13. Shoe repair,
14. Specialty shops,
15. Tailor,

16. Any other use which the planning commission finds to be consistent with the purposes of this chapter and the downtown specific plan. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.20.040 Property development standards.

The following property development standards and those in Chapters 17.36 and 17.38 apply to all land and structures in the C-R district:

- A. Lot Area. No requirements.  
 B. Lot Dimensions.
1. Width: no requirements.
  2. Depth: no requirements.

C. Population Density. The density shall not exceed one dwelling unit for each three thousand square feet of lot area subject to the limitation that any lot having less than four thousand square feet of area may not be used for residential purposes.

D. Building Height. No building or structure erected in this district shall have a height greater than two stories, not to exceed thirty-five feet.

#### E. Yards.

1. Front yard: Each lot shall have a front yard of not less than ten feet. The yard shall be landscaped and maintained.

2. Side yard: None required, except:

a. Where the side yard abuts a street, a ten-foot side yard shall be provided along the street. The yard shall be landscaped and maintained;

b. A five-foot interior side yard shall be provided for residential uses.

3. Rear yard: None required except for residential uses, in which case ten feet is required.

F. Space Between Buildings. Where a garage is located within the area defined by the projections of the side lines of any main building, and where the garage faces and is detached from any main building and the vehicular access to the garage falls entirely or in part within the area, the garage shall be not less than twenty-five feet from the main building or buildings.

G. Lot Coverage. Maximum lot coverage by buildings and structures shall not exceed sixty percent of the total lot area.

H. Fences, Hedges and Walls. Fences, including walls and hedges, not exceeding three feet in height, may occupy any yard area. Fences, hedges and wall fences up to six feet in height are allowed in street side yards where:

1. Residential lots abut nonresidential uses or zoned property;
2. Where street sideyard abuts another street side yard subject to sight distance requirements (Section 17.36.010[C]).

Fences or other structures over six feet in height to enclose tennis courts or similar areas located on the rear half of a lot may be allowed, subject to the approval of a conditional use permit.

I. Off-street Parking. The provisions of Section 17.36.020 apply.

J. Access.

1. There shall be adequate vehicular access to off-street parking facilities from a dedicated and improved street. The design of the access shall be approved by the city engineer as able to withstand commercial usage.

2. There shall be pedestrian access from a dedicated and improved street to property used for residential purposes.

K. Signs. The provisions of Section 17.36.030 apply.

L. Loading. Where a loading area abuts a residential use, loading shall be done between the hours of eight a.m. and six p.m. Otherwise, the area shall be located not less than one hundred feet from the residential use or be completely enclosed.

M. Findings for C-R Use in Neighborhood Commercial Zones.

1. The residential-commercial project design meets or exceeds the minimum qualifications established as follows:

a. Residential units are constructed above neighborhood commercial uses and covered parking is provided for the residential occupants, adjacent or attached to, the residential uses. In no case shall the covered parking be located further away than the width of a private driveway;

b. The residential units are integrated into the design of the building and provision of private open space in the form of a terrace or balcony be considered;

c. Private entrances are provided to each unit that are separated from any commercial uses;

d. Safe pedestrian access shall be provided between residential units and public sidewalks.

2. The Unit Design.

a. A mix of unit sizes shall be required in all cases and for in-fill development a minimum of twenty percent of the units shall be affordable to lower income qualifying residents.

b. For newly annexed areas, the percent of affordable housing shall be in conformance with housing goals and objectives of the housing element of the general plan. (Ord. 609 § 3, 2004; Ord. 523 § 2 (part), 1993; Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.20.050 Site plan review.**

Before any building or structure is erected on any lot in this district, a site plan shall have been submitted to and approved by the director pursuant to Chapter 17.44. (Ord. 445 § 2 (Exbt. A) (part), 1986)

## Chapter 17.22

### C-C COMMUNITY COMMERCIAL DISTRICT\*

#### Sections:

- 17.22.010 Purpose.**
- 17.22.020 Master development plan review and approval.**
- 17.22.030 Preliminary review.**
- 17.22.040 Development plans required.**
- 17.22.050 Final development plans.**
- 17.22.060 Expiration of plan and permit approvals.**
- 17.22.070 Phased development.**
- 17.22.075 Major changes to an approved master development plan.**
- 17.22.080 Minor changes to an approved master development plan.**
- 17.22.090 Permitted uses.**
- 17.22.100 Conditional uses.**
- 17.22.110 Accessory uses and structures.**
- 17.22.120 Prohibited uses.**
- 17.22.130 Property development standards.**
- 17.22.140 Architectural and Landscaping Design/Community Commercial Design Handbook.**
- 17.22.150 Site plan review.**

\* Prior ordinance history: Ord. 577.

#### **17.22.010 Purpose.**

The community commercial ("C-C") district is intended to ensure that development of major and smaller, neighborhood commercial

shopping center facilities are planned, designed and implemented in accordance with the best contemporary standards so as to be a commercial and aesthetic asset to the city. The district regulations provide a process for review and approval of the overall shopping center site plan consistent with design guidelines and standards established for that purpose. Property shall be designated in the C-C district only in connection with, and following city receipt of a development application for a community shopping center and a request for rezoning or pre-zoning to the C-C district. The district provides procedures and standards for modifications of uses and approval of site features and buildings within approved centers. The C-C district is intended to be consistent with areas designated for general commercial or highway commercial uses by the Soledad General Plan. (Ord. 632 § 2 (Exbt. A) (part), 2006)

#### **17.22.020 Master development plan review and approval.**

A master development plan, consisting of a development plan and final plan, as described in Sections 17.22.040 and 17.22.050 of this chapter, shall be processed and approved in accordance with the conditional use permit procedures of Chapter 17.42 of this title prior to initial development of a shopping center in the C-C district. This process will establish the master development plan for the center, including the layout of major elements such as building groups, circulation, parking and landscaped areas, and will determine the precise details of architectural design and execution, signing, and lighting. On sites of at least ten acres, the master development plan may include development and/or use regulations for the C-C site in addition to or in lieu of the provisions of this chapter if approved by the

city council. However, to the extent that alternative development and/or use regulations are not established by an approved development plan, the requirements of this chapter shall continue to apply. The procedures herein defined shall be in addition to and shall supersede the requirements of Chapter 17.42 of this title where conflicts exist. Master development plan approval shall proceed as set forth below. (Ord. 632 § 2 (Exbt. A) (part), 2006)

**17.22.030 Preliminary review.**

Prior to submittal of a development plan for consideration and action, the applicant shall submit preliminary plans showing site layout, proposed design theme, and architectural styles for preliminary review and comment by staff, and by the architectural review committee, planning commission and city council. Preliminary plans shall indicate the relationship and functional aspects of the project, including major building placement and orientation, roadway access and vehicular circulation, parking and major areas to be landscaped. The applicant shall consider and reflect comments received during preparation of a complete application for plan approval. (Ord. 632 § 2 (Exbt. A) (part), 2006)

**17.22.040 Development plans required.**

A. Submission of Development Plan. Following preliminary plan review, a development plan shall be submitted for approval pursuant to this section. The focus of this development plan shall be the architectural, landscaping, signing and lighting details of the project. Development plans shall generally conform to and meet the standards described in the Community Commercial Design Handbook, adopted by resolution of the city council, and which may be amended

from time to time. These standards shall be used in addition to development standards of this chapter and shall take precedence where a conflict exists.

B. Contents of the Development Plan. A development plan shall provide the details of property development and improvements related to site design, architectural treatment, preliminary landscaping, lighting, pedestrian and vehicular circulation and materials and finish. In addition to the application requirements of the Community Commercial Design Handbook, development plan applications shall provide those items specified by the city's site plan review procedures, Section 17.44.010(A) of this title. Additional information shall be submitted as needed to address the guidelines and standards set forth in the Design Handbook and shall include completion of the checklist contained in the handbook. On building sites of ten or more acres, development plans may also include development regulations and/or a description of uses in addition to or instead of those regulations or uses established by this chapter. Where more than one retail or service business is proposed to operate in a single building or lease area designed for a single business, to the extent possible, the specific building(s) or lease area(s) shall be identified on the development plan. Where development phasing is proposed, a phasing program shall also be provided showing the boundaries, timing and sequencing of development and associated infrastructure improvements within the district.

C. Development Plan Approval.

1. A development plan shall be processed in accordance with procedures for a conditional use permit as set forth in Chapter 17.42 of this title except that final approval of the development plan shall be by the city council.

If the planning commission consideration is to recommend city council approval of the plan, it shall report such findings and recommendation to the city council by resolution. If the commission determines to deny the plan, such action need not be forwarded to the council and the commission decision shall become final unless appealed pursuant to Chapter 17.46 of this title.

2. The planning commission, in recommending approval of the development plan, and the city council, in granting approval, must find the plan consistent with the Soledad General Plan and consistent with the development standards of this chapter and Chapters 17.36 and 17.38 of this title, except as otherwise provided herein, and with the Community Commercial Design Handbook. It is intended that, where conflicts arise between standards established in the code and those of the design handbook, that the Community Commercial Design Handbook shall govern. (Ord. 632 § 2 (Exbt. A) (part), 2006)

#### **17.22.050 Final development plans.**

A. Content of Final Development Plan. The final development plan shall consist of the development plan as approved and/or modified by the planning commission and city council, including any additional development and/or use regulations governing the C-C site that may have been required by the city council, along with any other detailed plans such as infrastructure improvement plans, landscaping plan and sign program as reviewed and approved by the architectural review committee, and the parking and loading plan. To the extent possible, the final development plan shall also identify the specific building(s) or lease area(s) where more than one retail sales or service business is proposed to operate in a

single building or lease area designed for a single business.

B. Action by City Council. The city council shall review the final development plan and determine its conformity to the approved development plan as previously approved. If it is determined that the final plan substantially conforms to the approved development plan, the final plan shall be approved by resolution. No conditional use permit approved in the C-C district shall be valid and no building permits or other project entitlements shall be granted until approval of the final plan is obtained. (Ord. 632 § 2 (Exbt. A) (part), 2006)

#### **17.22.060 Expiration of plan and permit approvals.**

Master development plans shall expire and be of no further force if an applicant fails to obtain a building permit(s) for construction authorized by such plans within three years from the date of plan approval. Notwithstanding, upon receipt of a request at least sixty days prior to said expiration date, the planning commission may grant an extension on the validity of the plans of up to three years. (Ord. 632 § 2 (Exbt. A) (part), 2006)

#### **17.22.070 Phased development.**

In the event that the applicant intends to develop the project in phases, and the planning commission or city council, as applicable, approves phased development, such plans shall remain in effect so long as not more than three years lapses between the end of one phase and the beginning of the next phase unless other provisions for phasing are set forth in the approved master development plan. (Ord. 632 § 2 (Exbt. A) (part), 2006)

**17.22.075 Major changes to an approved master development plan.**

Except as provided in Section 17.22.080 of this chapter, any establishment, expansion, enlargement or alteration of a use which is not in substantial conformance with the terms or conditions of the approved master development plan, is prohibited absent an amendment to said plan.

Final approval of an amendment to a master development plan shall be by the planning commission, unless appealed to the city council. The planning commission in granting approval of such an amendment must find: (1) that the proposed amendment is substantially consistent with the intent and content of the approved plan; (2) that the proposed amendment will be consistent with the general plan; and (3) that the establishment, maintenance or operation of the use will not be detrimental to the health, safety, comfort, convenience or general welfare of persons residing or working in the vicinity of the proposed use, or detrimental to property and improvements in the vicinity or to the general welfare of the city. (Ord. 632 § 2 (Exbt. A) (part), 2006)

**17.22.080 Minor changes to an approved master development plan.**

Other provisions of this chapter notwithstanding, an amendment to an approved master development plan shall not be required for the establishment, expansion or alteration of a use in the C-C district within, or contiguous to, an approved shopping center where the community development director finds that such development or use would pose a minor deviation from the approved master development plan, is in substantial conformity with the intent and provisions of the approved plan,

and is limited to the activities listed in this section. In such cases, the community development director may approve the change through the ministerial site plan review process or, at his discretion, may require that an amendment to the master development plan be prepared for consideration by the planning commission as set forth in Section 17.22.075 of this chapter. Minor changes to an approved master development plan shall include:

A. An increase in existing building floor area from that approved on the development plan of not more than ten percent of the total project floor area, including the construction of minor accessory buildings or appurtenances, provided that any building expansion would not result in one commercial business or use exceeding a gross floor area of one hundred ten thousand square feet except as otherwise provided by and shown on the approved development plan;

B. An increase in building height of not more than one story so long as the total building height does not exceed thirty-five feet;

C. Minor changes to architectural facades, or other embellishments;

D. Revisions to parking layout;

E. A change in signing programs;

F. Revisions to site landscaping;

G. A change in property use to add or replace an existing use with one permitted in the C-C zone, if associated improvements do not exceed the limitations specified in subsections A and B of this section;

H. Essential public facilities and utilities including water and sewer lines, etc.;

I. Reconfigurations to building footprints so long as total building square footage remains the same; and

J. Minor revisions to building placement. (Ord. 632 § 2 (Exbt. A) (part), 2006)

**17.22.090 Permitted uses.**

A. The following uses are permitted in the C-C district subject to site plan review, and when located in a community shopping center approved pursuant to these regulations.

1. All uses permitted in the C-1 district;
2. Banks and other financial institutions without drive-through services;
3. On sites of at least ten acres, any other use included in the approved master development plan as a permitted use, that has been determined by the planning commission or city council to be consistent with the provisions of this chapter and the general plan. Such uses may include uses listed in Sections 17.22.100 and 17.22.120 of this chapter; and
4. On sites of at least ten acres, more than one retail business operating in a single building or lease area designed for a single business, provided that all additional businesses are accessory to the principal business pursuant to Section 17.22.110 of this chapter. (Ord. 632 § 2 (Exbt. A) (part), 2006)

**17.22.100 Conditional uses.**

The following uses shall be permitted in the C-C district subject to a permit as provided for in Chapter 17.42, except as may otherwise be provided for sites of at least ten acres by Section 17.22.090 of this chapter:

- A. Automobile service stations;
- B. Buildings with more than five thousand square feet of gross floor area;
- C. Cocktail lounges when carried on as clearly secondary operations in conjunction with a bona fide restaurant and subject to Chapter 17.38 of this title;
- D. Indoor recreational uses, including, but not limited to, bowling alleys, pool and billiards, and skating rinks;

E. Day nursery, commercial or institutional, consistent with Section 17.28.060 of this title;

F. Drive-in restaurant;

G. Off-sale of liquor products, packaged;

H. Uses with a drive-through service;

I. Public and quasi-public buildings, including educational, religious, cultural, civic and recreational centers and similar uses, but excluding corporation yards, storage or repair yards, warehouses and similar uses;

J. Uses occupying more than five thousand square feet of gross floor area, except that, notwithstanding this provision, this subsection does not apply to those permitted uses allowed by an approved master development plan; and

K. Any use that the city council determines is consistent with the provisions of this chapter and the general plan and that is not expressly prohibited. (Ord. 632 § 2 (Exbt. A) (part), 2006)

**17.22.110 Accessory uses and structures.**

A. Accessory structures shall comply with all regulations applicable to the principal structure on a site.

B. Accessory Uses. A use shall be deemed accessory to a permitted use or conditionally permitted use allowed in the C-C district, if the accessory use:

1. Is subordinate to and serves a principal use;
2. Is subordinate in area, extent or purpose devoted to the principal use;
3. Contributes to the comfort, convenience or necessity of occupants of the principal use; and
4. Is located on the same lot as the principal use.

C. More than one retail sales or service business conducted within a single building or lease area. Accessory retail or service businesses operating within a single building or lease area shall not exceed forty percent, individually or combined, of the gross floor area approved for the principal business. All such businesses sharing a single building or lease area shall be disclosed to the community development director as early in the planning process as possible, but in no event, later than the time a request for a building permit for said building or lease area has been submitted. (Ord. 632 § 2 (Exbt. A) (part), 2006)

#### **17.22.120 Prohibited uses.**

A. Except as otherwise provided in subsection B of this section, the following uses are prohibited in the C-C district:

1. Sales of used items or clothing;
2. Thrift shops;
3. Indoor or outdoor flea markets;
4. Indoor or outdoor farmer's markets;
5. More than one retail business operating in a single building or lease area designed for a single business.

B. A master development plan on sites of at least ten acres may establish any use or uses otherwise prohibited by this section as a permitted or conditional use, if approved by the planning commission and city council. (Ord. 632 § 2 (Exbt. A) (part), 2006)

#### **17.22.130 Property development standards.**

The following property development standards and those in Chapters 17.36 and 17.38 of this title apply to all land and structures in the C-C district except as may otherwise be modified by a development plan on sites of at least ten acres approved pursuant to Section 17.22.040 of this chapter.

A. Lot Area. Subsection M of this section applies.

B. Lot Dimensions.

1. Width: No requirements.

2. Depth: No requirements.

C. Floor area ratio: 0.40

D. Building Height.

1. No building or structure in this district shall have a height greater than two stories, not to exceed thirty-five feet. The height of new structures shall be compatible with adjacent buildings, and, where there are adjoining residences, the height of structures shall be stepped away from residences for privacy protection.

E. Yards.

1. Front Yard: Each lot shall have a front yard that is landscaped and maintained extending across the full width of the lot as follows:

a. Abutting Highway 101 or other state right-of-way — thirty feet.

b. Abutting a city street — twenty feet.

2. Side Yard: Each lot shall have side yards that are landscaped and maintained as follows:

a. Interior lot line — none.

b. Corner lot line — ten feet.

c. Adjacent to Highway 101 or other state right-of-way — thirty feet.

d. Adjacent to residential zone — twenty feet or equivalent to building height whichever is greater.

3. Rear Yard: Each lot shall have a rear yard extending across the full width of the lot as follows:

a. Abutting another private property — twenty-five feet or equivalent to building height whichever is greater.

b. Abutting alley — two feet, with no parking or access.

F. Space Between Buildings. No requirements.

G. Lot Coverage. Sixty percent.

H. Fences, Hedges and Walls. Buffering shall be provided along the property lines of a shopping center when it abuts residential or other sensitive uses in order to protect these uses from light, glare, noise and heat that may be generated by the shopping center. Section 17.36.010 of this title applies. Additional standards are contained in the Community Commercial Design Handbook; these take precedence where in conflict with Section 17.36.010 of this title.

I. Off-Street Parking. Section 17.36.020 of this title applies.

J. Access.

1. There shall be adequate vehicular access from a dedicated and improved street. The access shall be approved by the city engineer.

2. The city engineer shall specify the location and number of means of ingress and egress to property by conditions established at the time of development plan review.

K. Signs Section 17.36.030 of this title applies. Additional sign standards are contained in the Community Commercial Design Handbook; these take precedence where in conflict with Section 17.36.030 of this title.

L. Loading.

1. The applicant for any use in this district shall demonstrate to the satisfaction of the city that adequate loading space is provided to serve the use. The location of the loading area shall not create an impediment to on or off-site parking or circulation nor create a hazard to public safety.

2. Where a loading area abuts a residential use, loading shall be limited to the hours of eight a.m. to six p.m. Otherwise, such area shall be located not less than one hundred feet from such use or be completely enclosed.

M. Size of New District. Two acre minimum. (Ord. 632 § 2 (Exbt. A) (part), 2006)

**17.22.140 Architectural and Landscaping Design/Community Commercial Design Handbook.**

Guidelines and standards for architectural character, building design and finish, signage lighting, walls and fences, site design, site amenities, and landscaping and screening for all development in the C-C district are set forth in the "Community Commercial Design Handbook." The "handbook" is adopted as formal city policy by separate resolution of the city council, and may be amended by resolution from time to time. It is intended that where guidelines and standards set forth in the "handbook" conflict with other provisions of the zoning ordinance, that the "handbook" shall prevail. (Ord. 632 § 2 (Exbt. A) (part), 2006)

**17.22.150 Site plan review.**

Before any parcel is created or any structure, or expansion thereof, is erected in this district, a site plan shall have been submitted to and approved by the community development director, pursuant to the provisions of Chapter 17.44 of this title. (Ord. 632 § 2 (Exbt. A) (part), 2006)

## Chapter 17.24

C-1 RETAIL CENTRAL BUSINESS  
DISTRICT

## Sections:

- 17.24.010 Purpose.  
 17.24.020 Permitted uses.  
 17.24.030 Conditional uses.  
 17.24.040 Property development standards.  
 17.24.050 Site plan review.

## 17.24.010 Purpose.

The C-1 retail central business district is intended to (A) implement the Downtown Specific Plan, (B) preserve and enhance older architectural styles, (C) provide an increased variety and density of development, (D) promote pedestrian enjoyment and uses where feasible and (e) provide an area of intensive retail commercial activity. (Ord. 445 § 2 (Exbt. A) (part), 1986)

## 17.24.020 Permitted uses.

The following uses, when conducted wholly within a building (or as otherwise specifically allowed by this section), shall be permitted in a C-1 retail central business district:

1. Antique shops;
2. Apparel shops;
3. Artist supply stores and studios;
4. Auto parts (new);
5. Bakery, retail;
6. Barber and hair salons;
7. Book stores;
8. Cafes and restaurants, wine and beer only without cocktail lounges;
9. Ceramic studios;
10. Delicatessens;

11. Department stores;
12. Drug store;
13. Flower shop;
14. Fruit and vegetable stores;
15. Furniture and home furnishings;
16. Fur shops, dressmaking or millinery shops;
17. Grocery stores;
18. Gymnasiums;
19. Hardware, homeware, gift shop;
20. Hobby and toy shop;
21. Ice cream;
22. Institutions of a philanthropic nature, except correctional and mental;
23. Jewelry;
24. Laundromat and dry cleaners (nonflammable chemicals);
25. Leather goods;
26. Libraries;
27. Music, records, television, radio, (retail only);
28. Newspaper stands;
29. Personal and business service establishments;
30. Pet shop;
31. Photographic studios and supplies;
32. Professional and administrative offices;
33. Public parking lots;
34. Shoe repair;
35. Shoe store;
36. Specialty shops;
37. Sporting goods;
38. Tobacco shops;
39. Tailor;
40. Telephone booths;
41. Variety stores;
42. Video cassette rental;
43. Yardage, drapery. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.24.030 Conditional uses.**

The following uses may conditionally be allowed in a C-1 district subject to the issuance of a conditional use permit in each case. All uses are subject to the property development standards in Section 17.24.040:

- A. Accessory buildings and structures not attached to the main building;
- B. Automotive service and repair establishments whose business is confined to minor service and repair work, does not include major repairs such as overhauls or replacements in motors, transmissions, welding or similar operations;
- C. Banks and other financial institutions;
- D. Bus terminals;
- E. Cafes and restaurants with cocktail lounges (see Section 17.38.040);
- F. Card rooms;
- G. Lodges, clubs if located on second floor or above;
- H. Medical clinics;
- I. Minimarkets;
- J. Mortuaries;
- K. Movie houses;
- L. Off-sale liquor stores;
- M. Pawn shops;
- Q. Pool halls;
- R. Public and quasipublic buildings (including educational, religious, cultural or public) but not including corporation yards, storage or repair yards, warehouses and similar uses;
- S. Radio and television broadcast studios;
- T. Video games (subject to Chapter 5.16);

U. Any other retail business or service establishment which the planning commission finds to be consistent with the purposes of this chapter and the Downtown Specific Plan. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.24.040 Property development standards.**

The following property development standards and those in Chapter 17.36 apply to all land and structures in the C-1 district:

- A. Lot Area. No requirements.
- B. Lot Dimensions.
  1. Width: no requirements.
  2. Depth: no requirements.
- C. Population Density. No requirements.
- D. Building Height. The maximum height of any building shall be thirty-five feet or two stories, whichever is less.
- E. Yards.
  1. Front yard: no requirements;
  2. Side yard: none required; provided, that if a side yard is contiguous to a residential district, then the yard shall not be less than ten feet. The yard shall be landscaped and maintained;
  3. Rear yard: none required; provided, that if a rear yard is contiguous to a residential district and there is no alley, then such rear yard shall not be less than ten feet; provided further, that when a building abuts an alley and access to the same is from the alley, then such building shall not be located closer than thirty feet from the opposite side of the alley.
- F. Space Between Buildings. No requirements.
- G. Lot Coverage. No requirements.

H. Fences, Hedges and Walls. Adequate buffering shall be provided between residential and nonresidential uses to protect the residential use from noise, light and glare that may be generated by the nonresidential use. The type, amount and location of said buffering shall be determined by the director during site plan review. See also Section 17.36.010.

I. Off-Street Parking. Section 17.36.020 applies.

J. Access.

1. There shall be adequate vehicular access from a dedicated and improved street. The access shall be approved by the city engineer.

2. The city engineer shall specify the location and number of means of ingress and egress to property by conditions established at the time of review of the required site plan.

K. Signs. Section 17.36.030 applies.

L. Loading.

1. The applicant for any use in this district shall demonstrate to the satisfaction of the city that adequate loading space is provided to serve the use. The location of the loading area shall not create an impediment to on or off-site parking or circulation nor create a hazard to the public safety.

2. Where a loading area abuts a residential use, loading shall be limited to the hours of eight a.m. to six p.m. Otherwise such area shall be located not less than one hundred feet from such use or be completely enclosed. Refrigeration units shall be shut off. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.24.050 Site plan review.

Before any building or structure is erected on any lot in this district, a site plan shall have been submitted and approved by the director, pursuant to the provisions of Chapter 17.44. (Ord. 445 § 2 (Exbt. A) (part), 1986)

## Chapter 17.26

### C-2 GENERAL COMMERCIAL DISTRICT

#### Sections:

- 17.26.010 Purpose.
- 17.26.020 Permitted uses.
- 17.26.030 Conditional uses.
- 17.26.040 Property development standards.
- 17.26.050 Site plan review.

#### 17.26.010 Purpose.

The C-2 general services district is intended to provide a district for vehicular-oriented uses with architectural and landscaping controls to protect the amenities of the area and to allow for the heavier types of commercial and semi-industrial uses which do not depend on pedestrian traffic and are more appropriately located away from the central business district. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.26.020 Permitted uses.

The following uses shall be permitted within wholly enclosed buildings (or as otherwise allowed by this section):

- A. Any use permitted in a C-1 district;
- B. Print shop;
- C. Automobile upholstery shops;
- D. Large appliance repair and sales store (no outdoor storage);
- E. Light manufacturing uses, such as cabinet shops, provided that there is no vibration, noise or odor emitted from the property;

F. Secondhand goods sales (all goods displayed, sold and stored within a completely enclosed building). (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.26.030 Conditional uses.

The following are conditional uses in the C-2 district:

- A. Any uses permitted in a C-1 district subject to the approval of a conditional use permit;
- B. Farm implement rental and service;
- C. Automobile, recreational vehicle, boat sales;
- D. Microwave facilities;
- E. Car washes;
- F. Building material sales;
- G. Wholesale stores and incidental warehousing;
- H. Outdoor storage in conjunction with a permitted or conditionally permitted use;
- I. Any other use that the planning commission determines is similar to the above uses. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.26.040 Property development standards.

The following property development standards and those in Chapters 17.36 and 17.38 apply to all land and structures in the C-2 district:

- A. Lot Area. No requirements.
- B. Lot Dimensions. No requirements.
- C. Population Density. No requirements.
- D. Building Height. The maximum height of any building shall be thirty-five feet or two stories, whichever is less.
- E. Yards.

1. Front yard: no requirements.

2. Side yard: None required; provided, that if a side yard is contiguous to a residential district, then the yard shall not be less than ten feet. The yard shall be landscaped and maintained.

3. Rear yard: none required; provided, that if a rear yard is contiguous to a residential district and there is no alley, then the yard shall be not less than ten feet; provided further, that when a building abuts an alley and access to the same is from the alley, then such building shall not be located closer than thirty feet from the opposite side of the alley.

F. Space Between Buildings. No requirements.

G. Coverage. No requirements.

H. Fences, Hedges and Walls. Adequate buffering shall be provided between residential and nonresidential uses to protect the residential uses from noise, light and glare that may be generated by the nonresidential use. Type, amount and location of the buffering shall be determined by the director during site plan review. See also Section 17.36.010.

I. Off-street Parking. The provisions of Section 17.36.020 apply.

J. Access. There shall be vehicular access from a dedicated and improved street or alley to off-street parking and loading facilities, the design of which shall be approved by the city engineer.

K. Signs. Section 17.36.030 applies.

L. Loading. The following standards for loading space apply:

1. The applicant for any use in this district shall demonstrate to the satisfaction of the city that adequate loading space is provided to serve the use. The location of the loading area shall not create an impediment to on or off-site parking or circulation nor create a hazard to public safety.

2. If a loading space abuts a residential use, loading shall be limited to the hours of eight a.m. to six p.m. Refrigeration units shall be shut off. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.26.050 Site plan review.**

Before any building or structure is erected on any lot in this district, a site plan shall have been submitted to and approved by the director, pursuant to Chapter 17.44. (Ord. 445 § 2 (Exbt. A) (part), 1986)

## Chapter 17.28

### H-C HIGHWAY COMMERCIAL DISTRICT

#### Sections:

- 17.28.010 Purpose.**  
**17.28.030 Conditional uses.**  
**17.28.040 Property development standards.**  
**17.28.050 Site plan review.**

#### 17.28.010 Purpose.

The purpose of the H-C district is to provide a district for vehicular-oriented uses with sufficient architectural and landscaping controls to protect the amenities of the area. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.28.030 Conditional uses.

The following are conditional uses in the H-C district:

- A. Banks and other financial institutions;
- B. Bowling alleys, skating rinks and similar recreational facilities;
- C. Building materials, supplies;
- D. Car wash;
- E. Caretaker's residence in conjunction with an allowed use;
- F. Clubs, lodges, community centers;
- G. Cocktail lounges, in conjunction with a restaurant;
- H. Farm machinery sales and service;
- I. Gasoline service stations/minimarkets;
- J. General offices;
- K. Grocery stores;
- L. Minimarket;
- M. Ministorage;
- N. New and used motor vehicle sales and service;
- O. Plant nurseries;

P. Recreational vehicle and boat sales and service;

Q. Restaurants, including drive-ins;

R. Small-animal veterinary hospitals;

T. Tire sales and service;

U. Truck sales and service;

V. Truck terminals;

W. Visitor accommodation facilities;

X. Any similar use which the commission find to be consistent with the intent of this chapter and the general plan. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.28.040 Property development standards.

The following are property development standards in the H-C district:

A. Lot Area. No requirement.

B. Lot Dimensions.

1. Width: no requirements.

2. Depth: no requirements.

C. Population Density. No requirements; however, Chapter 17.40 applies for existing residences.

D. Building Height. The maximum building or structural height of all buildings is forty feet except that a height of up to fifty feet for buildings located outside of the downtown specific plan area boundaries is allowed subject to approval of a conditional use permit. Notwithstanding the aforesaid provision, any portion of a building located within twenty feet of any lot in a residential (R-) district shall be limited to a maximum height of forty feet.

E. Yards.

1. Front Yard. Each lot in the H-C district shall have a front yard, extending the full width of the subject property, of not less than ten feet, except that a landscaped yard of less than ten feet width may be approved by the planning commission where the total land-

scaped yard area is the same as that which would result from application of the minimum yard requirement. The yard shall be landscaped and maintained. Parking shall not be permitted in a front yard area.

2. Side Yard. None required, unless an H-C district is contiguous to an R district; then, ten feet.

3. Rear Yard. None required, unless an H-C district is contiguous to an R district; then, ten feet; provided further, that when a building abuts an alley and access to the building is from the alley, then the building shall not be located closer than thirty feet from the opposite side of the alley.

F. Space Between Buildings. No requirements.

G. Lot Coverage. The maximum coverage of the lot by all structures shall not exceed sixty percent.

H. Fences, Walls, Hedges. A buffer shall be provided along the district boundary between the H-C district and any residential district. The amount, type and location shall be determined by the director at the time of site plan review. See also Section 17.36.010.

I. Off-Street Parking. Section 17.36.020 applies.

J. Access.

1. There shall be adequate vehicular access from a dedicated and improved street. The access shall be approved by the city engineer.

2. The city engineer shall specify the location and number of means of ingress and egress to property by conditions established at the time of review of the required site plan.

K. Signs. Section 17.36.030 applies.

L. Loading.

1. The applicant for any use in this district shall demonstrate to the satisfaction of the city that adequate loading space is provided to

serve the use. The location of the loading area shall not create an impediment to or off-site parking or circulation nor create a hazard to public safety. (Ord. 643 § 1, 2007; Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.28.050 Site plan review.**

Before any structure is erected within this district, a site plan shall have been submitted to and approved by the director, pursuant to Chapter 17.44. (Ord. 445 § 2 (Exbt. A) (part), 1986)

## Chapter 17.30

## M INDUSTRIAL DISTRICT

## Sections:

- 17.30.010 Purpose.
- 17.30.020 Permitted uses.
- 17.30.030 Conditional uses.
- 17.30.040 Uses expressly prohibited.
- 17.30.050 Property development standards.
- 17.30.060 Site plan review.

**17.30.010 Purpose.**

The M industrial district is intended to provide a district exclusively devoted to industrial development wherein manufacturing and other industries can locate and operate away from the restricting influences of nonindustrial uses, while maintaining an environment free from offensive or objectionable noise, dust, odor or other nuisances. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.30.020 Permitted uses.**

The following are permitted uses in the M district: agricultural uses not including processing or parking operations. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.30.030 Conditional uses.**

The following uses are permitted in an industrial (M) district subject to approval of a conditional use permit: any use whatsoever except those listed as expressly prohibited, with the further provision that all uses shall not exceed the pollution standards of Chapter 17.38. The public works superintendent shall review each use for the amount and type

of waste discharge prior to authorizing connection to the city's sewer system. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.30.040 Uses expressly prohibited.**

The following uses are expressly prohibited in the M district:

A. For existing residential uses, the existing residence may be used for residential purposes but may not be converted to more intensive residential uses. Existing residential uses are subject to Chapter 17.40, Nonconforming Uses;

B. New residential uses, including mobile home parks, other than for the use of a caretaker in connection with an industrial use;

C. Visitor accommodation facilities. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.30.050 Property development standards.**

The following property development standards and those in Chapter 17.36 shall apply to all land and structures in the M district:

A. Lot Area. No requirements.

B. Lot Dimensions. Each dimension is minimum only.

1. Width: Each lot shall have a minimum width of seventy-five feet. Lots fronting on a cul-de-sac shall have a minimum width of fifty feet.

2. Depth: Each lot shall have a minimum depth of one hundred twenty feet.

C. Population Density. No requirements; however, for existing residential uses, Chapter 17.40 applies.

D. Building Height. Although there are no requirements for maximum building height, it shall be demonstrated to the satisfaction of the planning commission

and fire chief that any proposed structure taller than fifty feet will not create a visual or other problem nor create an impediment to fire safety.

E. Yards.

1. Front yard: none required; except, that on any street or highway that is a boundary between an M district and any residential district there shall be a front yard of not less than fifteen feet. This yard shall not be used for parking or loading. The yard shall be landscaped and maintained.

2. Side yard: none required; except, that on any street or highway that is a boundary between an M district and any residential district there shall be a front yard of not less than fifteen feet. This yard shall not be used for parking or loading. The yard shall be landscaped and maintained.

3. Rear yard: none required; except, that on any street or highway that is a boundary between an M district and any residential district there shall be a front yard of not less than fifteen feet. This yard shall not be used for parking or loading. The yard shall be landscaped and maintained.

F. Space Between Buildings. No requirements.

G. Lot Coverage. No requirements.

H. Fences, Hedges and Walls. Visual buffering consisting of landscaping, berms, walls or fencing shall be provided along any front, side or rear property line as required by the planning commission to enhance the appearance of the subject

property from adjoining parcels and to mitigate any noise, light, glare or heat that may be generated or reflected.

I. Off-street Parking. Chapter 17.36.020 applies.

J. Access.

1. There shall be vehicular access from a dedicated and improved street to off-street parking and loading facilities.

2. The city engineer shall specify the location and number of ingress and egress points by conditions established at the time of review of the required site plan.

K. Signs. Section 17.36.030 applies.

L. Loading.

1. In no case shall any part of an alley or street be used for loading.

2. A loading space shall be not less than twelve feet in width, forty feet in length, and fourteen feet in height.

3. Loading spaces shall not be located within the required front, side or rear yards.

4. There shall be one loading space for each thirty thousand square feet of gross floor area for commercial buildings.

5. There shall be one loading space for each forty thousand square feet of gross floor area for industrial buildings. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.30.060 Site plan review.**

Before any building or structure is erected on any lot in this district, a site plan shall have been submitted to and approved by the director, pursuant to Chapter 17.44. (Ord. 445 § 2 (Exbt. A) (part), 1986)

## Chapter 17.32

### OS OPEN SPACE DISTRICT

#### Sections:

- 17.32.010 Purpose.
- 17.32.020 Permitted uses.
- 17.32.030 Conditional uses.
- 17.32.040 Property development standards.
- 17.32.050 Site plan review.

#### 17.32.010 Purpose.

The OS open space district is designed to preserve a rural and natural atmosphere, to protect the environment and ecology of the area, and to preserve open space in an urban area for future generations. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.32.020 Permitted uses.

The following uses are permitted in an OS open space district: crop and tree farming, pasturage for livestock. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.32.030 Conditional uses.

The following uses may be conditionally allowed in an OS district, subject to the issuance of a use permit in each case:

- A. Golf courses and related facilities;
- B. Private parks and recreational facilities;
- C. Public parks and recreational uses;
- D. Any other use which in the opinion of the planning commission would be compatible with the purposes and objectives of the district. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.32.040 Property development standards.

There are no property development standards in the OS district. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.32.050 Site plan review.

Before any building or structure is erected on any lot in this district, a site plan shall have been submitted to and approved by the director, pursuant to Chapter 17.44. (Ord. 445 § 2 (Exbt. A) (part), 1986)

## Chapter 17.34

### PF PUBLIC FACILITY DISTRICT

#### Sections:

- 17.34.010 Purpose.
- 17.34.020 Conditionally allowed uses.
- 17.34.030 Site plan review.

#### 17.34.010 Purpose.

The PF public facility zone is intended to provide for the wide range of public uses likely to be located on public property. Public uses are those conducted by governmental or nonprofit agencies; however, this zone will also provide for complementary private and commercial uses which will provide a public benefit. The zone is further intended to protect neighboring private uses from potentially incompatible public uses. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.34.020 Conditionally allowed uses.

The following uses may be conditionally allowed in a PF public facility district, subject to the issuance of a use permit in each case:

- A. Public parks and playgrounds, camping and picnic areas;
- B. Public schools, and nonprofit private schools;
- C. Governmental offices, meeting rooms and facilities;

D. Libraries, museums, galleries, exhibition buildings;

E. Churches;

F. Water and wastewater treatment plants; landfill and incineration sites;

G. Police and fire stations and training facilities;

H. Bus terminals, garaging and maintenance;

I. Highway and road maintenance yards;

J. Utility company and public agency corporation yards;

K. Transmitting, receiving and relay communications structures;

L. Hospitals and medical offices and facilities; rest homes and sanitariums;

M. Welfare and charitable services;

N. Recreation and community centers, child day care facilities, senior citizens centers;

O. Public automobile parking not associated with a principal use;

P. Entertainment and sports facilities, other than playing fields, including but not limited to theaters, auditoriums, stadiums and racetracks. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.34.030 Site plan review.

Prior to the erection of any structure or the commencement of any use in this district, a site plan shall be submitted to and approved by the director in accordance with Chapter 17.44. (Ord. 445 § 2 (Exbt. A) (part), 1986)

## Chapter 17.36

### PROPERTY DEVELOPMENT STANDARDS

#### Sections:

- 17.36.005**    **Applicability.**  
**17.36.010**    **Fences, hedges and walls.**  
**17.36.020**    **Off-street parking.**

#### **17.36.005**    **Applicability.**

The standards set out in this chapter apply to all uses in all districts. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.36.010**    **Fences, hedges and walls.**

A. Dangerous Areas. A fence or wall shall be constructed along the perimeter of all areas considered by the council to be dangerous to the public health and safety. The height of such wall shall be determined by the council in relation to the danger or hazard involved. The fence or wall may be required when a use requires a permit or at the discretion of the council according to the danger or hazard involved.

#### B. Permitted Materials.

1. Fence materials may include wood, wire mesh, steel mesh, chain link, louvered glass, stake and other similar materials.

2. Wall materials shall include concrete, concrete block, wood or any other similar materials that are solids and are so assembled as to form a solid barrier.

3. Barbed wire, aluminum, fiberglass metal siding shall not be used as fencing materials. An architectural approval as per Section 17.08.030 may be granted by the planning director to use such material based on the need for the type of fence, design compatibility of the fence, and approval of the adjoining property owner if on an interior property line.

Nonconforming status shall not be provided for fences constructed of these materials.

4. All fences/walls shall be maintained so as not to create a public health, safety, welfare or visual problem.

C. Sight Distance Requirements. Adequate sight distance shall be maintained at all intersecting streets or highways, driveways intersecting a street or alley, and alleys intersecting a street. Building setback and fence height regulations may be modified by the director or the planning commission if it is determined that such action is necessary to insure adequate sight distance. Landscaping shall be maintained so as not to hinder sight distance.

D. Fencing Adjoining Public Alleys and Drainage Channels. A site plan approval may be granted for the construction of fences or walls conforming to Section 17.36.010 of up to eight feet zero inches in height on all residentially zoned property adjoining public alleys or drainage channels. Fences shall not extend into front or street side yards unless a conditional use permit is approved by the planning commission. (Ord. 542 § 2 (Exbt. A), 1994; Ord. 509 § 2, 1991; Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.36.020**    **Off-street parking.**

A. Number of Spaces Per Use. The off-street parking requirements set out in Table 17.36.020 apply to the residential uses described in the table with respect to buildings erected and new uses commenced after February 17, 1974. For any use not specifically mentioned in this subsection, the planning commission shall determine the

amount of parking required. All facilities shall be on-site unless specified differently. The parking requirements set forth in this section may be reduced below the stated requirements when the planning commission, or on appeal the city council, finds that because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the requirements would deprive the subject property of privileges enjoyed by other

properties of the same kind in the vicinity, and where it finds that such variance or reduction is consistent with the purpose and intent of this section.

B. Location. All off-street parking, whether in a garage or open area, shall be so located as to be accessible and usable for the parking of motor vehicles. In all residential zones, off-street parking shall not be located in any required yard or setback area.

C. Additional Parking Requirements.

1. Any parcel of land used for off-street parking, car or trailer sales after the adoption of the ordinance codified in this title shall be developed according to the city's specifications, and shall be enclosed by a solid fence when such areas are adjacent to any residential (R) district, the fence to be constructed six feet in height behind the front setback area, and three feet in height in any front setback area.

2. Parking required in any district must be on-site except that where buildings or structures in existence at the time the ordinance codified in this title was adopted cover a site to the extent that sufficient on-site parking cannot be provided, off-site parking may be allowed.

3. Joint use of parking facilities will be allowed under the following conditions:

- a. When there is no conflict at time of use;
- b. When there is sufficient parking for all uses.

D. Reduction Where Assessment District Is Included. Parking required in any C-1 or C-2 commercial district may be reduced below the stated requirements in any portion of such district included

within a public parking district or assessment district for financing off-street parking facilities in proportion to the amount of assessment on each property owner. Cost of each parking space provided by the district shall be computed by dividing the number of such spaces into the total of the assessment levied against the property within the district. The assessment against individual property shall be divided by this cost per space, to determine the nearest whole number by which the parking requirements on said property may be reduced. Payment to the city for the remaining number of parking spaces required, if any, shall be made in an amount equal to the value of required parking on a per-parking-space basis. From time to time, the city council shall establish by resolution the value of off-street parking facilities on a per-parking-space basis, to be determined on the basis of the cost of acquisition and improvement of parking facilities as shown on the Downtown Specific Plan. Funds collected by the city from such payment shall be deposited in a special fund and used only by the city to acquire and/or develop off-street parking and related facilities which are consistent with the proposals of the Downtown Specific Plan. Funds paid toward these costs for in-lieu-of parking shall not be refundable, except where funds are not used within ten years. All in-lieu-of parking payments must be approved by the city council. All in-lieu-of parking fees shall be paid prior to the issuance of any license or permit with respect to the subject property.

E. Surfacing. Any off-street parking area shall be surfaced with a minimum of

Effective 04/30/07

Adopted 03/21/07 - Ord. 643

**PROPOSED AMENDMENT TO SECTIONS 17.28.040 AND 17.36.020 OF THE SOLEDAD ZONING ORDINANCE**

**Section 1:** Section 17.28.040 – Property Development Standards of Chapter 17.28 – H-C Highway Commercial District of Title 17 of the Soledad Municipal Code is amended as follows:

D. Building Height. The maximum building or structural height of all buildings is forty (40) feet except that a height of up to fifty (50) feet for buildings located outside of the Downtown Specific Plan Area boundaries is allowed subject to approval of a conditional use permit. Notwithstanding the aforesaid provision, any portion of a building located within twenty (20) feet of any lot in a residential (R-) district shall be limited to a maximum height of forty (40) feet.

E. Yards.

1. Front yard: Each lot in the H-C district shall have a front yard, extending the full width of the subject property, of not less than ten feet, except that a landscaped yard of less than ten (10) feet width may be approved by the Planning Commission where the total landscaped yard area is the same as that which would result from application of the minimum yard requirement. The yard shall be landscaped and maintained. Parking shall not be permitted in a front yard area.

**Section 2:** Section 17.36.020 – Off-street Parking of Chapter 17.36 – Property Development Standards of Title 17 of the Soledad Municipal Code is amended as follows:

F. Parking Lot Design. The following designed standards shall apply to all areas used for off-site parking where there are more than ten parking spaces required:

1. Street frontage: a minimum ten (10) foot wide landscape strip with shade trees, unless zone district requires a fifteen foot wide strip, except that a landscaped yard of less than ten (10) feet may be approved by the Planning Commission where the total landscaped yard area is the same as that which would result from application of the minimum yard requirement.

**Table 17.36.020  
OFF-STREET PARKING REQUIREMENTS**

Use	Parking Requirement
Single-family homes	Covered parking area of at least 320 square feet, minimum width of 16 feet, minimum driveway area of 360 square feet
Duplex and multifamily dwelling units having not more than two bedrooms per unit	Two covered parking spaces per dwelling unit
Duplex and multifamily dwelling units having more than two bedrooms per unit	Two covered and one-half uncovered parking spaces per dwelling unit
Planned developments in any district where permitted	Two covered parking spaces per unit, not in tandem.  In situations where the internal streets are 25 feet in width, there shall be no on-street parking. In addition, one guest parking space per residence shall be required. In situations where the internal streets are 35 feet in width, on-street parking on one side may be allowed. One guest parking space per four residences shall be provided.
Roominghouses and boardinghouses	One parking space per adult guest
Churches, lodges, clubs, community centers, chapels	One parking space for each four seats but not less than one space for each fifteen square feet of the largest meeting hall
Schools, public, private, commercial	One parking space for each classroom and office
Hospitals	One parking space per bed plus one space per doctor, plus one space for each two employees on the largest shift
Convalescent hospitals, sanitariums, rest homes	One parking space for each seven beds plus one space for each two employees on the largest shift
Retail stores, services and offices in any district	Five parking spaces for each one thousand square feet of gross leaseable area; parking may be off-site within three hundred feet when approved by the planning commission
Drive-in restaurants, any district	One space for each car to be served plus one space for each three seats
Service stations	Two spaces for each working bay plus one space for each employee on the largest shift
Restaurants, bars, cocktail lounges	One space for each three seats but not less than one space for each thirty square feet of gross floor area
Bowling alley, billiard parlor	Five spaces per lane; two spaces per table, plus one space for each two employees on the largest shift
Warehousing, wholesale stores in any district	One space for each one thousand stores in any district square feet of gross floor area; may be off-site within three hundred feet on approval of the planning commission

Table 17.36.020 (Continued)  
OFF-STREET PARKING REQUIREMENTS

Use	Parking Requirement
Manufacturing, heavy industrial uses, heavy commercial uses	Minimum of two spaces for every three employees on the shift having the largest number of employees, but not less than one space for each one thousand square feet of gross floor area. Parking may be off-site within three hundred feet upon approval of the planning commission

five inches of imported base material and a double application of asphalt and gravel to the city engineer's approval, so as to provide a durable and dustless surface and shall be so graded and drained as to dispose of all surface water accumulated within the area and shall be so arranged and marked as to provide for safe loading and unloading and parking of vehicles.

F. **Parking Lot Design.** The following design standards shall apply to all areas used for off-site parking where there are more than ten parking spaces required:

1. **Street Frontage.** A minimum ten-foot wide landscape strip with shade trees, unless zone district requires a fifteen-foot wide strip, except that a landscaped yard of less than ten feet may be approved by the planning commission where the total landscaped yard area is the same as that which would result from application of the minimum yard requirement.

2. **Interior Landscaping.** Five percent with one tree per two hundred square feet increment of the five percent. (Example: if a use requires twenty-four thousand square feet of parking area — roughly sixty-four to seventy parking spaces — required landscaping would be one thousand two hundred square feet ( $24,000 \times .05 = 1,200$ ). Required number of trees would be 6 ( $1,200 \div 200 = 6$ ).

3. In order to achieve maximum use of the parking area, parking stalls for compact vehicles may be used in association with the required landscaping. The stalls may be no smaller than eight and one-half feet by seventeen and one-half feet, provided the number of compact spaces does not exceed fifty percent of the total number of spaces. Compact stalls shall be marked.

G. **Reduction of Covered Parking Requirements.** In apartment projects where there are more than five units, covered off-street

parking may be converted to uncovered parking subject to the approval of a conditional use permit. (Ord. 643 § 2, 2007; Ord. 466 § 8, 1988; Ord. 455, 1987; Ord. 445 § 2 (Exbt. A) (part), 1986)

## Chapter 17.38

SPECIAL STANDARDS AND  
REQUIREMENTS

## Sections:

17.38.010	Adult entertainment.
17.38.020	Antennas.
17.38.030	Boardinghouses.
17.38.040	Cafes—Restaurants— Cocktail lounges.
17.38.045	Caretakers' residences.
17.38.050	Condominiums— Townhouses.
17.38.060	Day nurseries.
17.38.080	Drive-through facilities.
17.38.090	Driveway standards.
17.38.100	Easements.
17.38.110	Energy conservation standards.
17.38.120	Hazardous uses.
17.38.130	Historical structures.
17.38.140	Home occupations.
17.38.160	Landscaping.
17.38.170	Through lots.
17.38.180	Front lot line.
17.38.190	Rear lot line.
17.38.200	Side lot line.
17.38.210	Mobile homes on permanent foundations.
17.38.220	Outdoor storage.
17.38.230	Planned developments.
17.38.240	Pollution control.
17.38.250	Rest homes.
17.38.260	Second residential units.
17.38.270	Security and public safety.
17.38.280	Small-animal veterinary hospital or clinic.
17.38.290	Storage tanks.
17.38.300	Street improvements.
17.38.310	Swimming lessons.

17.38.320	Swimming pools.
17.38.330	Utilities.
17.38.340	Parking and storage of vehicles, boats and equipment in R zoning districts.
17.38.350	Cardrooms.

## 17.38.010 Adult entertainment.

A. Purpose. The purpose of this section is to regulate uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon the adjacent areas. The city council finds that special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods. The primary purpose of the regulations set forth in this section is to prevent a concentration of these uses in any one area.

B. Definitions. For purposes of this section, certain words and phrases are defined as follows:

1. "Adult entertainment business" means and includes the following:

a. "Adult book store," an establishment having as a substantial or significant portion of its stock-in-trade books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or

an establishment with a segment or section devoted to the sale or display of such materials;

b. "Adult motion picture theater," an enclosed building with a capacity of fifty or more persons used for presenting materials distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein;

c. "Adult mini-motion picture theater," an enclosed building with a capacity for less than fifty persons used for presenting materials distinguished or characterized by an emphasis on matters depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein;

d. "Adult hotel or motel," a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas;

e. "Adult motion picture arcade," any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas;

f. "Cabaret," a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic

dancers, strippers, or similar entertainers where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas;

g. "Model studio," any business where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by persons paying such consideration or gratuity;

h. "Sexual encounter center," any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons may congregate, assemble, or associate for the purpose of engaging in specified sexual activities or exposing specified anatomical areas; and

i. Any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

2. "Specified sexual activities" means and includes the following:

a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship and any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, or zoerasty; or

b. The use of human or animal masturbation, sodomy, oral copulation, coitus or ejaculation; or

c. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or

d. Fondling or touching nude human genitals, pubic regions, buttocks or female breasts; or

e. Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or

f. Erotic or lewd touching, fondling or other contact with an animal by a human being; or

g. Human excretion, urination, menstruation, or vaginal or anal irrigation.

3. "Specified anatomical areas" means and includes the following:

a. Less than completely and opaquely covered: (i) human genitals, pubic region, (ii) buttocks, and (iii) female breasts below a point immediately above the top of the areola; and

b. Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

C. Conditional Use Permit Required. An adult entertainment business is not permitted in any zone unless a conditional use permit is obtained pursuant to Chapter 17.42. No adult entertainment business shall be granted a conditional use permit unless the lot upon which such business is proposed to be located:

1. Is classified in zone C-2 or a less restrictive zone;

2. Is not within five hundred feet of any lot located in any of the R residential zones;

3. Is not within one thousand feet of any lot upon which there is located another adult entertainment business; and

4. Is not within one thousand feet of any lot upon which there is located a church, a school in which minors are enrolled, a child care facility, a public building, a park, a playground or any recreational facility where minors congregate, including recreational facilities that are privately owned and operated as well as those that are owned and operated by a public agency.

All measurements of distance under this section shall be made in a straight line, without regard to intervening structures or objects. Measurements between adult entertainment businesses under subdivision 3 of this subsection shall be between the boundaries of the respective lots on which the businesses are or are proposed to be conducted which are closest to one another. For purposes of subdivision 4 of this subsection, measurement shall be between the closest boundaries of the lot on which an activity described in subdivision 4 is located and the lot on which an adult entertainment business is proposed to be conducted.

D. Nonconforming Adult Entertainment Businesses. Notwithstanding anything to the contrary contained in Chapter 17.40 or elsewhere in this title, all adult entertainment businesses that were lawfully in existence as of the effective date of this ordinance codified in this title and were rendered nonconforming by the application thereto of this chapter shall be discontinued or shall be brought into full conformance within one year of

the effective date of the ordinance codified in this title; provided, that any such nonconforming use may continue for up to one additional year upon the granting of a conditional use permit pursuant to Chapter 17.42, upon a finding and determination that the owner of the business, because of his inability to avoid liability under a written lease of the business premises which extends for more than one year beyond the effective date of the ordinance codified in this title, or because of a substantial investment in leasehold improvements to the premises which he cannot recover except by use of the premises, would suffer undue hardship if he were not allowed to continue the business at that location for the longer period.

**E. Advertisements and Displays — Prohibitions.** No adult entertainment business shall advertise or display portions of, or posters concerning, any of its stock-in-trade (such as books, magazines or motion pictures) in such a way as to render such advertisement or display visible from any public street, thoroughfare, private residence or business premises if such advertisement or display contains photographs or language depicting or referring to specified sexual activities or to specified anatomical areas.

**F. Violation a Public Nuisance.** In addition to the criminal penalty provisions set forth in Chapter 17.50, the violation of any of the provisions of this section is declared to be a public nuisance subject to abatement as provided by law. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.38.020 Antennas.**

Antennas for personal use, including television, citizens band, ham radio, or satellite receiving dishes, are permissible, provided that:

A. They are not located in a required front yard, or street side yard;

B. A building permit is required for the installation of an antenna or satellite dish. Prior to the issuance of the building permit, it shall be demonstrated to the satisfaction of the Building Official that:

1. The antenna or dish is properly designed, constructed and installed to withstand wind pressure and will not create a public health or safety problem,

2. If roof mounted, that the roof is capable of supporting the structure;

C. Prior to the issuance of a building permit, an architectural review application shall be submitted to and approved by the architectural review committee for roof mounted satellite dishes and antennas that extend more than six feet in height above the highest peak of the roof, excluding chimneys and other architectural features;

D. The antenna or dish will not create glare on surrounding properties. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.38.030 Boardinghouses.**

The following standards apply to boardinghouses:

**A. Conditional Use Permit Required.** A boardinghouse is allowed in the R-3 district subject to the approval of a conditional use permit.

**B. Standards — Conditions.** The following standards and requirements apply to boardinghouses:

1. There shall be one parking space per tenant and two spaces for the manager. Tandem parking is not permitted.

2. An on-site resident manager is required. His phone number shall be on file with the police department.

3. The building shall meet the requirement of the latest editions of the Uniform Fire Code and the Uniform Building Codes as adopted by the city.

4. If an existing structure is to be used, a registered civil engineer shall certify that the building is structurally sound and capable of withstanding earthquake motion.

5. Hotplates are not permitted.

6. A business license is required.

7. The conditional use permit shall be valid for a maximum period of five years, at which time a new application is required.

8. No signs advertising the use are permitted. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.38.040 Cafes—Restaurants— Cocktail lounges.

A. Cocktail lounges which are carried on as a clearly secondary operation in conjunction with a bona fide restaurant operation may be permitted in any district in which they are listed as permitted or conditionally permitted subject to the following conditions:

1. The cocktail lounge shall be designed as an integral part of the restaurant within which it is located.

2. The cocktail lounge shall be entered only from within the restaurant. There shall be no outside entrance to the cocktail lounge except for emergency use only.

3. The cocktail lounge shall be operated only during the hours that the restaurant is open for business.

4. The area of any cocktail lounge shall not constitute more than twenty-five percent of the total floor area of the dining room and cocktail lounge.

5. The cocktail lounge may not utilize outdoor advertising except in conjunction with the restaurant.

B. Cafes, restaurants and cocktail lounges may have an outside eating or service area provided that it does not exceed fifty percent of the floor area within a building.

C. A wine-tasting facility may be allowed in an H-C district subject to a conditional use permit. "Wine tasting facility" means the providing of wine samples in order to promote the sale of wine of a particular winery or wineries. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.38.045 Caretakers' residences.

One permanent accessory dwelling is permitted for purposes of housing a caretaker where allowed by certain commercial or industrial zones, subject to the following standards and approval of a conditional use permit (Chapter 17.42).

A. Supplementary Statement. The application shall include a statement with explanation of the need for caretaker quarters and the responsibilities of the caretaker/resident.

B. Status of Caretaker. The resident of the dwelling shall be the owner, lessor, manager or any employee with sufficient knowledge of the underlying industrial or commercial use to capably undertake caretaker responsibilities.

C. Type of Use Requiring a Caretaker. The principal use of the site must require a caretaker for security purposes, or for care of people, plants, animals, equipment, or other conditions on the site, or for needed housing for the owner or operator of a business.

D. Allowable Location for a Caretaker Dwelling. In C-H, C-1, C-2, C-C, P-F and M zones, such dwelling shall be located on

the second floor, or to the rear of a principal building. In the C-H and I zones, such dwelling may be located in accordance with the needs of the applicant. In all zoning districts, a caretaker residence is to be located on the same lot of record or contiguous ownership as the use requiring a caretaker.

E. Type of Dwelling Unit Allowed. Caretaker residences shall be a standard site-built home, or an apartment-type unit if the caretaker residence is to be integral with a principal structure. The unit shall be located to the rear of the building or located on the second floor of the building.

F. Parking Requirement. For existing developed sites, none provided sufficient usable area available to accommodate all resident vehicles on-site. For sites being developed with new structures, standard parking requirements shall apply.

G. Standards Modification. Standards set in the above noted subsections may be modified by the planning commission through the conditional use permit approval process. (Ord. 519 § 2 (Exbt. A), 1993)

#### **17.38.050 Condominiums— Townhouses.**

A. Applicability. The provisions of this section apply to condominium, townhouse, cooperative housing and similar residential developments, including both new structures and the conversion of existing structures; the provisions are in addition to those set forth in Chapter 17.14 of this title. "Condominium," as used in this section, refers to all such developments.

B. Intent and Purpose. It is the expressed intent and purpose of the city to apply the regulations contained in this section to condominiums and other similar developments described in this section be-

cause the element of permanent ownership or interest in the individual dwelling units, or the air space occupied thereby, makes such developments

essentially different in nature from apartments or other multifamily dwellings in which the dwelling units are rented or leased.

C. Types of Condominiums. Residential condominiums shall be classified as follows:

1. Horizontal, one in which single-family dwelling units are constructed either as separate structures or as self-contained units within a common structure having individual entrances and utility connections, no opening in any wall common to two or more units, and no part of any unit on top of part of any other unit;

2. Vertical, any condominium in which any part of any dwelling unit is on top of any part of any other dwelling unit.

D. Outdoor Common Area. The outdoor common area of a residential condominium, exclusive of all structures, shall provide not less than five hundred square feet of open space per dwelling unit; provided, however, that the open space requirement may be met in whole or in part by any equivalent open ground area which is a part of any individual dwelling unit.

E. Separation Between Structures. In any condominium in which residential uses are proposed in an R-3 district, each main structure shall be separated from any other main structure on the same lot by a distance of not less than one-half of the sum of the height of the two buildings and in no case less than twenty feet.

F. Minimum Setbacks. The side yard setback of any residential main structure on any condominium lot on a public street is five feet.

G. Use Permit Application. A use permit is required for all condominium developments. The use permit application shall be accompanied by:

1. A legal description of the property and a map to a workable scale showing existing conditions, including boundaries, topography and landscaping, structures and other improvements located thereon, road and utility easements, and such other information as may be requested by the planning director;

2. Dimensioned schematic development plans, including a site plan, a parking plan, typical floor plans, building elevation plans showing natural and transverse grades, a landscaping plan, and such other information and drawings as may be requested by the planning director. The plans submitted shall show private open space areas, as well as common areas, and shall indicate how air spaces are to be divided;

3. A statement of provisions to be made for fire protection, including access for fire and other emergency equipment;

4. A copy of the tentative subdivision map for the project;

5. A copy of the declaration of restrictions proposed for recordation under the provisions of Section 1355 of the Civil Code, including provisions for management of the project;

6. In the case of a condominium conversion, the names and addresses of all tenants of the existing building or buildings;

7. If the applicant is a corporation, a copy of the articles of incorporation and a copy of the bylaws of the corporation;

8. Any other information deemed necessary or desirable for the purpose of

assisting the planning commission in its determination on the application, and of conditions to be imposed. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.38.060 Day nurseries.**

Day nurseries may be operated in any district in which they are listed as permitted only when the lot on which it is established is occupied by no more than one dwelling unit. Day nurseries shall be identified as one of the categories indicated below.

A. A small day nursery regularly provides care, protection, and supervision for one through six children not related to the caregiver in the caregiver's own home for periods of less than twenty-four hours per day, while the parents or guardians are away. A small day nursery is considered accessory to a permitted and established single-family residential use in agricultural and residential zoning districts.

B. A large day nursery regularly provide care, protection and supervision for seven through twelve children not related to the caregiver in the caregiver's own home for periods of less than twenty-four hours per day, while the parents or guardians are away. Operation of a large day nursery is permitted only as specifically provided for by district regulations.

C. An institutional day nursery regularly provides care, protection and supervision for more than twelve children when operated in conjunction with and on the same site as a public or private school, church or other institutional use which is permitted and established in the district. Operation of an institutional day nursery is subject to approval of a conditional use permit.

D. A commercial day nursery regularly provides care, protection and supervision for

more than twelve children in specified districts. Access shall be only from a collector or arterial street, or a local street if the street is developed primarily with business. Play areas shall be separated from contiguous residential yards by a six-foot-high solid masonry wall. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.38.080 Drive-through facilities.**

A conditional use permit is required for a drive-through lane, window or other facility. The lane or facility shall be designed so as not to create an impediment to on-site or off-site vehicular or pedestrian circulation or parking. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.38.090 Driveway standards.**

A driveway shall be paved. In situations where the required parking is

located to the rear of the main dwelling, the driveway shall be not less than ten feet in width and open for a height of eight feet. All driveways shall be built in accordance with city standards. Driveways for panhandle lots shall be not less than twelve feet in width. A turnaround shall be provided to prevent vehicles from backing. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.38.100 Easements.**

No building or structure shall be constructed which may be in conflict with a recorded easement. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.38.110 Energy conservation standards.**

A. Lot design shall provide, to the extent feasible, for passive or natural heating or cooling opportunities and for other measures that conserve nonrenewable energy resources. Design measures to accomplish these objectives may include, but are not limited to, the arranging of streets, lots, buildings, and landscaping to (1) provide solar access for active solar water and space heating systems and passive space heating, (2) minimize solar heat gain in the summer, and (3) take advantage of prevailing breezes.

B. In providing for future passive or natural heating or cooling opportunities, consideration shall be given to local climate, to contour, to configuration of the original parcel, and to other design and improvement requirements. Such provision shall not result in reducing allowable densities or the percentage of a lot which may be occupied by a building or structure under applicable zoning. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.38.120 Hazardous uses.**

A. Use Permit Required. All of the uses listed in this section, and all matters directly related to them, are uses possessing characteristics of such unique and special form as to make impractical their inclusion in any class of use set forth in the various districts defined in this title, and therefore the authority for a location of the operation of any of the uses designated in this section is subject to the issuance of a conditional use permit in accordance with the provisions of Chapter 17.42. In addition to the criteria for determining whether or not a use permit should be issued, the planning commission shall consider the following additional factors to determine that the characteristics of the listed uses will not be unreasonably incompatible with uses permitted in surrounding areas: (1) damage or nuisance from noise, smoke, odor, dust or vibration; (2) hazard from explosion, contamination or fire; (3) hazard occasioned by unusual volume or character of traffic or the congregating of a large number of people or vehicles. The uses referred to herein are as follows:

1. Airports and landing fields;
2. Cemeteries;
3. Establishments or enterprises involving large assemblages of people or automobiles as follows:
  - a. Amusement parks and racetracks;
  - b. Circuses or carnivals, Fourth of July celebrations or similar short-term special events, except when conducted on a city owned public park and when having first received administrative approval of a city park activity/special event permit;
  - c. Public buildings, parks and other recreational facilities;

d. Recreational facilities, privately operated.

4. Hospitals, medical offices, rest homes and sanitariums;

5. Garbage dumps;

6. The mining of natural mineral resources, together with the necessary buildings and appurtenances incident thereto;

7. Removal or deposit of earth, other than excavations or deposits in connection with construction of buildings, roadways or public or home improvements.

B. General Performance Standards. The following general performance standards apply to hazardous uses:

1. Fire and explosion hazards: All activities involving, and all storage of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire-suppression equipment and devices standard in industry and as approved by the fire department. All incineration is prohibited except any incineration conducted by the city which otherwise conforms with applicable state and federal regulations.

2. Radioactivity or electrical disturbance: Devices which radiate radio-frequency energy shall be so operated as not to cause interference with any activity carried on beyond the boundary line of the property upon which the device is located. Further, no radiation of any kind shall be emitted in quantities which is dangerous to humans. (Ord. 568 § 1, 2000; Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.38.130 Historical structures.

In order to conserve structures of potential local historical significance, plans for additions/alterations to, or the removal of, structures built prior to 1936 and/or associated

with a local historical event or person, or exhibiting a significant historical architectural style shall be referred to the planning commission for approval if in the opinion of the planning director or building official referral is necessary. The decision of the planning commission is appealable to the city council. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.38.140 Home occupations.

“Home occupation” means any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the structure for dwelling purposes and which use does not change the character thereof. The following criteria apply for the evaluation of a home occupation:

A. There shall be no employment of help other than the members of the resident family.

B. There shall be no use of material or mechanical equipment not recognized as being part of normal household or hobby uses.

C. Except when actually being shown to business visitors for the purpose of sale, all goods and merchandise held for sale shall be stored in a closed closet or compartment on the premises, located either in the dwelling unit or in an accessory structure, having an interior capacity of no more than nine hundred sixty square feet.

D. The use shall not generate pedestrian or vehicular traffic or vehicle parking beyond that normal to the district in which it is located.

E. It shall not involve the use of commercial vehicles for delivery of materials to or from the premises, other than a vehicle not to exceed one ton capacity, owned by the operator of

such home occupations, which shall be stored in an entirely enclosed garage.

F. There shall not be any generation of noise, light, odor, vibration, or electrical interference beyond the property line of the subject property. (Ord. 486 § 2, 1990; Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.38.160 Landscaping.**

A. All landscaping, where required, shall be maintained in a healthful growing state free from weeds, litter and debris.

B. Although no specific plant species is proposed, it is preferred that native plants be selected because of their tolerance to local climatic conditions and their resistance to drought. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.38.170 Through lots.

For through lots the director shall determine which frontage or frontages shall be considered as the "lot front" or "lot frontages" for purposes of compliance with yard and setback provisions of this title. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.38.180 Front lot line.

A. On an interior lot, the front lot line is the property line abutting the street.

B. On a corner lot, the front lot line is the shorter property line abutting a street.

C. On a through lot, or a lot with three or more sides abutting a street, or a corner lot with lot lines of equal length, the director shall determine which property line or lines shall be the front lot line for purposes of compliance with yard and setback provisions of this title. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.38.190 Rear lot line.

In the case of an irregular, triangular or goreshaped lot, the rear lot line shall be a line within the lot, parallel to and at a maximum distance from the front lot line, having a length of not less than ten feet. A lot line which is bounded on all sides by streets may have no rear lot line. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.38.200 Side lot line.

On a lot with three or more sides abutting a street, all lot lines abutting such street or streets, other than the front lot line or lines, may be side lot lines. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.38.210 Mobile homes on permanent foundations.

A. Applicability. This section is enacted pursuant to the provisions of Section 65852.3 of the Government Code and applies only to mobile homes placed on permanent foundation systems on lots zoned for single-family dwellings.

B. Permitted Use. A mobile home is permitted as a residential dwelling on any lot zoned for single-family residential use, provided it meets all of the requirements of this section.

C. Approval by Architectural Review Committee. No building permit, certificate of occupancy, or other permit or entitlement shall be issued for the establishment or placement of a mobile home as a residence on any parcel of land under the provisions of this chapter, except within an approved mobile home park, unless and until such use has been approved by the architectural review committee.

D. Eligibility. A mobile home qualifies under the provisions of this section only if:

1. It has been certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C., Section 5401, et seq.), and has not been altered in violation of that act; and

2. It is placed on a permanent foundation system approved by the building

inspector which complies with the provisions of this section and with all applicable building codes and regulations, specifically including the provisions of Section 18551 of the Health and Safety Code.

E. Criteria To Be Applied. In order to approve an application for the establishment or placement of a mobile home pursuant to this chapter, the architectural review committee must find that the proposed mobile home meets all of the following criteria for neighborhood compatibility:

1. It must comply with all provisions of the zoning ordinance applicable to residential structures.

2. It must have a minimum width of twenty feet.

3. The mobile home and accessory structures, such as garage or carport, must be covered with an exterior material customarily used in new residential structures in the surrounding areas, which shall extend to the ground; provided, that when a solid concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation.

4. The finish floor shall be a maximum of twenty-five inches above the exterior finish grade of the lot.

5. The roof must have a pitch of not less than two inches vertical rise for each twelve inches of horizontal run and must consist of shingles or other material customarily used for new residential construction in the surrounding area.

6. It must have porches and eaves, or roofs with eaves, which are comparable to those found in new residential structures in the surrounding area.

The architectural review committee may not impose more stringent criteria or conditions than those contained in this subsection.

F. Building Permit Requirements. Prior to the issuance of a building permit for the establishment or placement of a mobile home on a foundation system pursuant to this section, the owner or contractor shall provide the building inspector with all of the documents and information, and shall pay all of the fees, required by Section 18551 of the Health and Safety Code, in addition to complying with all other requirements for a building permit.

G. Mobile Home as Fixture — Prohibition on Removal. Once installed on a foundation system in compliance with the provisions of this section and with Section 18551 of the Health and Safety Code, a mobile home shall be deemed a fixture and a real property improvement to the property to which it is affixed. Physical removal of the mobile home shall thereafter be prohibited without the consent of all person or entities who, at the time of such removal, have title to any estate or interest in the real property to which the mobile home is affixed.

H. Appeal. Any action taken or decision made by the architectural review committee upon an application for the establishment or placement of a mobile home on a permanent foundation system pursuant to this section may be appealed by the applicant pursuant to Chapter 17.46. An owner of real property situated within three hundred feet of the proposed mobile home site has the same right of appeal. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.38.220 Outdoor storage.**

A. Adequate visual screening shall be provided for all outdoor storage areas. The screening shall be approved by the city.

B. No storage is permitted in any required front or street side yard. (Ord. 525 § 2 (part), 1993; Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.38.230 Planned developments.**

A. Planned developments are intended to promote efficient use of the land through increased design flexibility and quality site planning. The planned development concept allows departure from standard property development regulations when development is planned as a unified, integrated whole and incorporates outstanding design features and amenities. Planned developments can provide for maximum effective density and improved aesthetics through increased flexibility in building siting, creative use of permanent open space, and the preservation of significant natural features. Mobile home parks shall be considered a planned development and shall meet the requirements of Section 17.38.230(C)(3).

B. Whenever property is proposed to be developed as a planned development, the following general principles apply:

1. Planned developments may include any combination of detached or attached units.

2. District property development standards, except as related to population density, may be modified or waived where it is determined that such modification or waiver will produce a more functional, enduring and desirable environment, and no adverse impact to adjacent properties will result therefrom.

3. Population density shall be calculated on gross acreage, less public streets.

4. Community sewer and water is required for development.

5. The design of a planned development shall ensure compatibility and harmony with existing and planned uses on adjacent properties. Design elements to be considered include, but are not limited to, architecture, distance between buildings, building setbacks, building height, off-street parking, open space, privacy, screening and landscaping.

6. Off-street parking shall be provided consistent with the parking standards of Section 17.36.020 for planned developments and shall be integrated into the development to minimize exposure and impact on neighboring development. Notwithstanding this aforesaid provision, an exception to the number or type or arrangement of parking spaces may be approved for planned developments consisting of condominiums or townhouses provided that parking sufficient for occupants of the development and their guests will be provided and provided that said exception is consistent with the following criteria:

a. Where a tandem parking arrangement is proposed:

i. Each unit shall have no more than two bedrooms, and

ii. The required number of guest parking spaces shall comply with Section 17.36.020 or equivalent on-street parking shall be provided;

b. Where enclosed parking sufficient for two cars per unit is provided, the parking arrangement may be either side-by-side or tandem. Where two-car garages are proposed for all residential units, a reduction in guest parking of up to twenty percent of the total guest parking requirement may be allowed, with said reduction pro-rated based upon the proportion of housing units having two-car garages;

c. Where inclusionary affordable housing is proposed consistent with Chapter 17.41, exceptions to the parking requirements of Sec-

tion 17.36.020 may be approved, and compliance with the aforesaid criteria is not required.

7. The developer shall provide for perpetual maintenance of all common land and facilities under common ownership through means acceptable to the city.

8. Conservation of natural site features, such as topography, vegetation and water-courses shall be considered in project design.

9. Energy conservation, and utilization of renewable energy sources, should be given prominent consideration.

10. Streets serving the development must be adequate to accommodate the traffic generated by the proposed project.

C. In addition to the requirements of subsections A and B of this section, the following criteria apply:

1. Planned residential developments shall provide common open space free of buildings, streets, driveways or parking areas. The common open space shall be designed and located to be easily accessible to all the occupants of the development and usable for open space and recreational uses.

2. Planned residential developments greater than twenty acres in area may include:

a. Commercial, educational, religious and professional uses. Such uses must be compatibly and harmoniously incorporated into the development;

b. Mobile home development, when located and designed to be compatibly and harmoniously incorporated into the development;

3. Mobile home planned residential developments may be permitted when developed in accordance with the following:

a. The minimum development size is three acres; however, a smaller size may be permitted when developed as a portion of a larger development in accordance with subdivision (1)(b) of this subsection.

b. Density of development shall be consistent with the general plan.

c. Development is restricted to single-family mobile homes.

d. The planning commission or the city council may require that mobile homes be recessed where a determination is made that such condition is needed to ensure compatibility and harmony with existing and planned uses on adjacent properties. Where such finding is made, the following applies:

i. All mobile homes shall be recessed below level grade to the extent that the floor elevation is no greater than eighteen inches nor less than six inches above grade. The requirement may be modified if it is determined by the director that a greater or lesser elevation is needed to protect the health, safety and welfare of the occupants.

ii. The area between the floor elevation and the ground shall be skirted or otherwise enclosed and properly sealed to preclude water from entering under the mobile home.

iii. Whenever the soil is excavated below a mobile home, a retaining wall shall be installed extending six inches above grade.

e. No access drive shall be less than twenty-five feet in width, or thirty-two feet in width if car parking is permitted on one side of the access drive, and not less than forty feet in width if car parking is permitted both sides of an access drive.

f. A minimum fifteen-foot wide landscaped setback shall be provided along all public street frontage.

i. The landscaped setback shall be designed by a licensed landscape architect, and landscaping shall be installed by a licensed landscape contractor.

ii. The landscaping shall be maintained by the operator of the park to be in a healthful growing state free from weeds and debris.

iii. The landscaped setback shall include a solid masonry wall with a staggered setback at a maximum of every thirty-five feet and street trees spaced at a maximum of thirty-five feet on center.

g. Guest parking spaces required by Table 17.36.020 shall be evenly distributed throughout the project. In situations where guest parking adjoins a mobile home space, a solid masonry wall shall be provided. (Ord. 644 § 1, 2007; Ord. 466 §§ 3, 4, 1988; Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.38.240 Pollution control.**

A. Noise. The following performance standards for noise control apply in all residential, commercial, and industrial districts:

1. At the boundaries of any lot or parcel of land the maximum sound pressure level radiated in each standard octave band by any use or facility (other than transportation facilities or temporary construction work) shall not exceed the dB-A values given in Table 17.38.240 A, after applying the correction shown in Table 17.38.240 B.

2. Measurements shall be made as follows:

**Table 17.38.240 A**  
**MAXIMUM PERMITTED SOUND LEVEL AT LOT LINE IN DECIBELS**

Residential	Commercial	Industrial
dB-A-55	dB-A-65	db-A-68

If the noise is not smooth and continuous and is not radiated between the hours of one p.m. and seven a.m., one or more of the corrections in Table 17.38.240 B shall be applied to the octave band levels given in Table 17.38.240 A:

**Table 17.38.240 B**

Type or Location of Operation — Character of Noise	Correction in Decibels
1. Daytime operation only	Plus 5
2. Noise source operated less than:	
a. 20% of any 1-hour period	Plus 5
b. 5% of any 1-hour period	+ 10
(Apply one of these corrections only)	
3. Noise of impulsive character such as hammering	Minus 5
4. Noise of periodic character such as hammering or screeching	Minus 5

B. Vibration. No vibrations shall be permitted so as to cause a noticeable tremor, measurable without instruments at the lot line.

C. Air Pollutants. No emission of fly ash, dust, fumes, vapors, gases or other forms of air pollution which can damage the health of humans or animals, or to vegetation or other forms of property, is permitted.

D. Glare. No direct or reflected glare, whether produced by floodlight, high-temperature processes such as combustion or welding, or other means, so as to be visible from any boundary line of property on which the glare is produced, is permitted.

E. Liquid or Solid Wastes. No discharge at any point into any public sewer, storm drain, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply, interfere with bacterial processes in sewage treatment, or otherwise cause the emission of dangerous or offensive elements, is permitted, except in compliance with standards approved by the California Department of Public Health or such other governmental agency or agencies as has jurisdiction over such activities. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.38.250 Rest homes.**

A. There shall be only limited medical care not involving a physician residing on the premises of any rest home. There

shall be no surgery or other similar activities such as are customarily provided in hospitals.

B. The population density standards of the district in which the facility is proposed shall apply. For this purpose the resident family and six persons residing in the facility shall be counted as one family in determining the required lot area. One additional person may be permitted for each one thousand square feet of lot area exceeding the minimum lot size.

C. The maximum number of persons calculated in subsection B of this section applies regardless of the number of the licensee's family, or persons employed as facility staff, who shall not be included in determining the number of residents. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.38.260 Second residential units.

A. A. Second Residential Unit Defined. For purposes of this section, "second residential unit" means a dwelling unit constructed on a lot or parcel of land containing an existing single-family residence, either attached to or detached from the existing residence, which provides complete and independent living facilities, including permanent provisions for living, sleeping, eating, cooking and sanitation.

B. Conditional Use Permit Required. Second residential units are allowed in the R-1, R-2 and R3 districts, subject to the obtaining of a conditional use permit.

C. Standards — Requirements. The minimum requirements for the issuance of such permit are as follows:

1. The lot size must be at least the minimum square feet otherwise required for development of a lot in the zoning district in which it is located.

2. The living area of the second unit shall not exceed six hundred fifty square feet, and may include a maximum of one bedroom, one bathroom, one kitchen and one living/dining room.

3. Both units shall contain laundry connections within them.

4. Notwithstanding any provision to the contrary contained in this code (or in any code adopted by reference in this code), a second residential unit may be connected to the city sewerage system through a side sewer shared with the primary residence on the site, or it may have its own side sewer. In either case the connection of the second residential unit to the city sewerage system is subject to the requirements of this code to the same extent as though it were the only dwelling unit on the site, including the obtaining of a permit, the payment of connection charges and the payment of user charges.

5. The owner of the property must reside in one of the two residential units on the site during the life of the conditional use permit.

6. Occupancy of the second residential unit shall be limited to a maximum of two persons.

7. The parking requirements set forth in this title may be varied or reduced below the stated requirements when the planning commission, or on appeal the city council, finds that because of special circumstances applicable to the subject property, including size, shape, topography, location, surroundings or other reason, the strict application of the

requirements would deprive the subject property of privileges enjoyed by other properties of the same kind in the vicinity, and where it finds that such variance or reduction is consistent with the purpose and intent of this section.

8. One of the residential units may be rented, but it shall not be offered for sale apart from the other residence, nor shall the lot or parcel be subdivided to create a separate building site unless approved under the subdivision ordinance of this city.

9. The second residential unit shall not increase an existing or create a new encroachment upon any required front, side or rear yard space, increase building height or coverage beyond the standards prescribed for the district in which it is located, or decrease the distance between structures that is required.

10. The second residential unit shall comply with all uniform building codes adopted, and to all other applicable laws, rules and regulations. It may not be a mobile home.

11. Special conditions for attached units:

a. One parking space, in addition to the number required for the existing unit, shall be provided. Such additional space may be an uncovered and/or tandem space.

b. Separate metering of utilities is not required.

12. Special conditions for detached units:

a. One parking space, in addition to the number required for the existing unit, shall be provided. Such additional space shall be covered and not in tandem to other parking on the lot.

b. Detached units shall be permitted only on corner lots, or on lots more than one hundred sixty feet deep.

c. Separate metering of utilities is required.

The planning commission, or the city council on appeal, may attach such other reasonable conditions to the development and use of a second residential unit as it deems necessary to preserve the health, safety, welfare, and character of the neighborhood.

D. Conditional Use Permit — Findings Required. In approving a conditional use permit for a second residential unit, the planning commission, or the city council on appeal, shall make the following findings:

1. That the proposed construction meets all of the requirements set forth in this section;

2. That the project conforms to the general plan;

3. That the second residential unit will not cause excessive noise, traffic or other disturbances to the existing neighborhood, or result in significantly adverse impacts on public services and resources.

E. Recordation of Deed Restriction. Prior to the issuance of a building permit for a second residential unit, the owner of the lot or parcel on which it is to be constructed shall execute and deliver to the planning director, for recordation pursuant to the provisions of Section 27281.5 of the Government Code, a deed restriction in the form satisfactory to the city attorney giving notice of the requirements of this chapter and of the conditions and requirements of the conditional use permit authorizing the second unit.

F. Periodic Review. The planning director shall from time to time conduct a review of all conditional use permits for second residential units, with particular attention to the following concerns:

1. A change in ownership of the lot or parcel of land on which the two residential units are situated.
2. A change in the occupancy of the residential units which is not in compliance with this title;
3. Any other failure to comply with a condition or conditions imposed by the conditional use permit.

If upon such review it appears that in a particular case a violation of the provisions of this section or of the conditions of the use permit has occurred, the planning director shall report the same to the planning commission. Upon receipt of such report the planning commission may, after public hearing held upon not less than ten days' written notice to the owner of record of the property upon which the second residential unit is situated, take such action as it deems necessary to correct any violation that it finds has occurred. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.38.270 Security and public safety.**

Security lighting shall be provided for carports in multifamily projects consisting of three or more units. Lighting fixtures and their location shall be approved by the building official and police chief. Lighting shall be directed so as not to create glare or illuminate adjoining property. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.38.280 Small-animal veterinary hospital or clinic.**

"Small-animal veterinary hospital or clinic" means a completely enclosed building designed, arranged and intended to be used for the medical treatment and care incidental thereto of small animals such as dogs, cats and other similar household pets. These shall not include the medical treatment or care of bovine animals, horses, sheep, goats or swine. The building shall be designed and constructed so that sound emitted through exterior walls or roofs or enclosed areas in which animals are kennelled or treated does not exceed sixty-five decibels. There shall be no incineration permitted. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.38.290 Storage tanks.**

A. Aboveground tanks shall be adequately screened by berms, landscaping, fencing or walls. Adequate security measures such as fencing and lighting shall be provided to prevent unauthorized entry.

B. Below-ground tanks shall meet all the requirements of the city, the Monterey County Health Department and other applicable agencies. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.38.300 Street improvements.**

Whenever a parcel is subdivided, or a new main building is constructed, or the value of on-site improvements exceeds thirty-three percent of the value of the existing on-site improvements, curb, gutter and sidewalks shall be installed. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.38.310 Swimming lessons.**

A. Swimming lessons for up to three individuals may be given at one time.

B. Lessons for more than three individuals shall require a conditional use permit.

C. Swimming pools used for swimming lessons shall be inspected periodically by the Monterey County Health Department.

D. The use shall not create a noise nuisance for the surrounding property. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.38.320 Swimming pools**

The following requirements apply to all swimming pools, and to ponds more than eighteen inches deep, in a residential (R) district:

A. Location. Such pools or ponds shall be constructed at least fifty feet from the front line and at least ten feet from the side line of the lot. The planning commission may by use permit allow a different location, but in no case shall the foregoing requirements be reduced by more than fifty percent. Filter and heating systems shall not be located closer than twenty feet to any dwelling other than the owner's.

B. Enclosure. All swimming pools and ponds shall be completely enclosed by a fence at least six feet in height, designed to resist climbing. All gates shall be self-closing and self-latching. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.38.330 Utilities.**

A. All apartments and other multiple dwellings, including condominium, community housing projects and planned community developments, but excluding hotels, motels and other accommodations for transients, shall provide for independent services of water, gas and electricity to each

dwelling unit. Separate shutoffs for each dwelling unit shall be provided.

B. All dwelling units erected, constructed or remodeled after the effective date of the ordinance codified in this title shall contain the water, plumbing and electrical or gas utility connections and outlets necessary to operate and maintain home laundry facilities, consisting of not less than one washer and one dryer (1) for each structure duplex, or (2) for each four or fewer units in any apartment house or multifamily dwelling. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.38.340 Parking and storage of vehicles, boats and equipment in R zoning districts.**

A. Purpose. The purpose of this section is to regulate the parking and storage of vehicles, boats, trailers, and equipment in R zoning districts in order to minimize adverse aesthetic impacts that large, numerous or inappropriate vehicles have in residential districts by limiting the type of such vehicles, their numbers and the locations such vehicles may be parked or stored.

**B. Definitions.**

1. "Disabled-inoperative vehicle" means any vehicle unable to run under its own power, unlicensed or determined to be unsafe to operate.

2. "Driveway" means a private road leading from the public street to the principal structure, residence, garage, carport or parking area.

3. "Equipment" means any mobile equipment not used primarily for the transportation of persons or property and which is only incidentally operated or moved over a highway, including, but not limited to ditch-digging apparatus, asphalt spreaders,

bituminous mixers, bucket loaders, tractors other than truck-tractors, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carryalls, scrapers, power shovels, draglines, self-propelled cranes, earth moving equipment, forklifts, drill rigs and similar commercial machines.

4. "Recreational vehicle (RV)," means any travel trailer or other vehicular portable structure designed to be used as a temporary occupancy for travel or recreational use, including, but not limited to, motor homes, truck slidein campers, fifth wheel trailers, tent trailers, animal trailers, trailers used for transportation of recreational vehicles, any type of three or four wheeled sport racing vehicle, boats, boat trailers, rafts, aircraft, dune buggies, snowmobiles, jet skis, all-terrain vehicles and vehicle dollies. Such term does not include mobile homes regulated under Section 17.38.210.

5. "Vehicle" means a device by which any person or property may be propelled, moved or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks.

6. "Vehicle storage" means parking or placing any of the items described in this section for a period in excess of three consecutive days, or six days in any calendar year.

C. Parking and Storage not Allowed in Certain Yard Areas. No portion of any required front yard, exterior side yard of a corner lot, or rear yard of a double frontage lot except as hereafter provided, shall for any period of time in excess of three consecutive days or six days in a calendar year be used for the unenclosed parking or storage of the following:

1. Motor vehicles, except in fully operational condition and currently registered and licensed for operation on public streets and highways, and when parked on the driveway of the property;

2. Recreational vehicles;

3. Disabled/inoperative vehicles;

4. Trailers of any kind or type. Camper units detached from the truck or other motor vehicles for which they are designed or customarily used shall be considered trailers for the purpose of this section;

5. Boats and boats on trailers;

6. Equipment as defined in Section B.3;

7. Commercial vehicles of over 10,000 pounds gross weight, or in excess of twenty feet in length;

8. Parts of any items of property described in one through five of this section.

Any of the foregoing items of property, which have been stored on a site or yard described herein for less than three consecutive days or six days in any calendar year and then removed, shall not again be stored on such site or yard in that same calendar year unless in compliance with either subsection D or E of this section.

D. Vehicle Storage Exceptions in the Single Family Residential (R-1) District. Subject to first obtaining a Certificate of Zoning Compliance approved by the planning director and payment of applicable fees, not more than one boat, or one trailer and boat combination, or one utility trailer may be allowed when it has been determined by the planning director that due to lack of feasible access, the vehicle cannot be parked or stored in the interior side yard or rear yard area and where the trailer, or boat trailer combination meet the following criteria:

1. The trailer/boat combination or utility trailer shall not exceed twenty feet in length or ten feet in height; and

2. Is parked or stored entirely upon the paved or designated driveway area, and not encroaching upon the public sidewalk; and

3. Is maintained in a clean condition and not containing refuse, or materials; and

4. Is covered with a secure tarp, or fitted fabric cover in good condition.

E. Temporary Extension of Time/Hardship. Upon demonstration of hardship, and subject to first obtaining a temporary use permit pursuant to Section 17.42.015, the storage of the items of property described in subsections B and C of this section may be allowed in front, side or rear yards of sites for a period of time not to exceed forty-five days in any calendar year.

F. Vehicle Storage in Multifamily Residential Districts. Storage described in this section is not permitted, unless an area for such storage has received previous formal approval by the city or first obtains approval of a conditional use permit by the planning commission.

G. Disabled/Inoperative Vehicles. No vehicles shall be repaired in the required front yard, street side yard or rear yard of double frontage lots or on driveway portions of a lot except in bona fide emergency situations. Any such repairs shall be complete within two calendar days. Repairs shall be limited to light work such as minor tune-ups and shall not involve significant parts removal or replacement. More extensive repairs may be conducted when out of public view within a garage or when enclosed by a solid wood fence. (Ord. 568 § 2, 2000)

### **17.38.350 Cardrooms.**

Cardrooms established pursuant to Chapter 5.36 shall comply with the following requirements:

A. All cardrooms shall comply with the cardroom licensing procedures as defined and required in Chapter 5.36 of this code;

B. A conditional use permit shall be required for each licensed cardroom with more than two card tables. The conditional use permit may be revoked by the planning commission if the use is found to be in violation of Chapter 5.36 of this code or other city regulations, or may be modified by the planning commission if deemed necessary.

C. The planning commission may require the installation of a robbery alarm or other security measures on the premises if circumstances warrant. The planning commission may rely on recommendations by the police department regarding whether, and to what extent, security measures may be required. (Ord. 649 § 2, 2007)

## Chapter 17.39

## DENSITY BONUS

## Sections:

17.39.010	Title.
17.39.020	Authority and purpose.
17.39.030	Density bonus entitlement.
17.39.040	Density bonus defined.
17.39.050	Limitation on entitlement.
17.39.060	Concession or incentive defined.
17.39.070	Application for concessions or incentives.
17.39.080	Evaluation of application.
17.39.090	Filing and processing of applications.
17.39.100	Planning commission action.
17.39.110	City council action.
17.39.120	Provisions applicable to all density bonus development projects.
17.39.130	Provisions applicable to rental density bonus development projects.
17.39.140	Provisions applicable to ownership density bonus development projects.

**17.39.010 Title.**

This chapter shall be known and may be cited as the density bonus ordinance of the city. (Ord. 501 § 2(1) (Exbt. A) (part), 1991)

**17.39.020 Authority and purpose.**

This chapter is enacted pursuant to the provisions of Section 65915 of the Government Code for the purpose of providing incentives to developers to provide affordable housing for persons of low and very low income and for senior citizens. (Ord. 501 § 2(1) (Exbt. A) (part), 1991)

**17.39.030 Density bonus entitlement.**

When an applicant for the development of five or more housing units agrees or proposes to construct at least (a) twenty percent of the total housing units for lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (b) ten percent of the total housing units for very low income households, as defined in Section 50105 of the Health and Safety Code, or (c) fifty percent of the total housing units for qualifying residents, as defined in Section 51.3(c) of the Civil Code, the city shall either:

(1) Grant a density bonus and at least one of the concessions or incentives identified in Section 17.39.060 of this chapter, unless the city council makes a written finding that the additional concession or incentive is not required in order to provide for affordable housing costs as defined in Section 50052.5 of the Health and Safety Code or for rents for the targeted units to be set as specified in Section 17.39.130 of this chapter; or

(2) Provide other incentives of equivalent value based upon the land cost per dwelling unit. (Ord. 501 § 2(1) (Exbt. A) (part), 1991)

**17.39.040 Density bonus defined.**

For the purposes of this chapter, "density bonus" means a density increase of at least twenty-five percent over the otherwise maximum allowable residential density under the zoning ordinance and the land use element of the general plan as of the date of filing of an application for development. The density bonus shall not be included when determining the number of housing units which is equal to ten percent or twenty percent of the total. (Ord. 501 § 2(1) (Exbt. A) (part), 1991)

**17.39.050 Limitation on entitlement.**

If a developer agrees to construct both twenty percent of the total housing units for lower income households and ten percent of the total housing units for very low income households, the developer shall be entitled to only one density bonus and at least one additional concession or

incentive identified in Section 17.39.060 of this chapter or in Section 65913.4 of the Government Code; provided, however, that the city, in its discretion, may grant more than one density bonus. (Ord. 501 § 2(1) (Exbt. A) (part), 1991)

**17.39.060 Concession or incentive defined.**

For purposes of this chapter, "concession or incentive" means any of the following:

- A. Reduction in minimum lot size required for senior citizens projects only;
- B. Increase in maximum lot coverage allowed;
- C. Reduction in minimum property line or street setbacks required;
- D. Reduction in amount of landscaping required;
- E. Reduction of minimum distance between buildings on the same property;
- F. Reduction in the minimum number of parking spaces required;
- G. Allowing additional increases in density;
- H. Allowing mixed use (e.g., residential/commercial, residential/office-professional or residential/industrial), if compatible with the proposed housing development and with existing or planned development in the vicinity;
- I. Other regulatory concessions, including modification of zoning and architectural design requirements, but only to the extent that such requirements exceed the minimum building standards approved by the State Building Standards Commission as provided in Paragraph 2.5 (commencing with Section 189-01) of Division 3 of the Health and Safety Code;
- J. Other financial incentives, including waiver or reduction of applicable fees and charges, the provision of required infrastructure, the use of redevelopment funds, or other forms of direct financial assistance. (Ord. 501 § 2(1) (Exbt. A) (part), 1991)

**17.39.070 Application for concessions or incentives.**

A developer may submit to the city a preliminary written proposal for the development of housing pursuant to this chapter prior to the submittal of any formal requests for general plan amendments, zoning amendments or subdivision map approvals. Within ninety days of receipt of a proposal, the city shall notify the developer, in writing, of the procedures to be followed in complying with the requirements of this chapter, which shall include city council approval. Such procedures shall be established, and from time to time may be amended, by resolution of the city council. (Ord. 501 § 2(1) (Exbt. A) (part), 1991)

**17.39.080 Evaluation of application.**

The planning commission shall evaluate and make its written recommendation to the city council upon an application for concessions or incentives pursuant to this chapter, based on the following criteria:

- (a) The requested concessions or incentive must be economically necessary in order to make the set-aside unit or units affordable as required by this chapter. The materials submitted by the developer must clearly indicate how the requested concession or incentive would make the project economically feasible.
- (b) The requested concession or incentive shall not result in a net profit of greater than twenty percent in comparison to the profit that would be made from the development without the density bonus and without the concessions and incentives available to the development under the provisions of this chapter.
- (c) The requested concession or incentive shall not be materially detrimental to public health, safety and welfare, nor injurious to property and/or improvements in the vicinity of the development.

(d) The requested concession or incentive shall not result in an overall development pattern that is incompatible with other structures in the immediate vicinity. (Ord. 501 § 2(1) (Exbt. A) (part), 1991)

**17.39.090 Filing and processing of applications.**

Applications for additional concessions and incentives shall be made in writing to the planning director of the city, who shall determine whether or not the application is complete and complies with the provisions of this chapter and other applicable laws and regulations. The application shall specify the concession or incentive requested and shall clearly indicate how the additional concession or incentive is necessary in order to ensure that the development will provide a reasonable economic return while still allowing the set-aside housing units to be affordable as required by this chapter. At a minimum, the application shall include an itemized accounting of projected costs and revenues of the development, both with and without the additional concessions and incentives required. Project revenues shall include moneys from the sale or rental of all units, including the density bonus units. Project costs shall not include the "lost opportunity" cost of the set-aside units, i.e., the amount that would have been generated had the set-aside units been rented or sold at market rate. Project costs may include items that are required solely as a result of the inclusion of the density bonus units and would not have been required without such units. The planning director shall, within sixty days after the date on which he certifies the application as complete, respond to the request for additional concessions and incentives in one of the following ways:

- (a) By recommending approval of the request;
- (b) By recommending a different or modified additional concession or incentive in lieu of one or more requested in the application;
- (c) By recommending disapproval of the request.

If a different or modified additional concession or incentive is recommended, the planning director shall indicate how the recommended concession or incentive has an equivalent effect in terms of the affordability of the set-aside units. If disapproval of the request is recommended, the

planning director shall indicate why the requested concession or incentive is not necessary in order to make the set-aside units affordable. The written recommendation of the planning director shall be presented to the planning commission within forty-five days after the date on which the application is determined by the planning director to be complete and in compliance, as hereinabove in this section set forth. (Ord. 501 § 2(1) (Exbt. A) (part), 1991)

**17.39.100 Planning commission action.**

Upon receipt of the report and recommendation of the planning director upon an application filed pursuant to this chapter, the planning commission shall hold a public hearing thereon and shall give notice of such hearing pursuant to the provisions of Sections 65090 and 65091 of the Government Code. Following the hearing, the commission shall make its written recommendation to the city council with respect to the application. (Ord. 501 § 2(1) (Exbt. A) (part), 1991)

**17.39.110 City council action.**

Upon receipt of the recommendation of the planning commission concerning an application filed pursuant to this chapter, the city council shall hold a public hearing upon the application and shall give notice of such hearing pursuant to the provisions of Sections 65090 and 65091 of the Government Code. Following the hearing, the council shall do one of the following:

- (a) Approve the request contained in the application.
- (b) Approve a different or modified additional concession or incentive in lieu of one or more requested in the application; or
- (c) Disapprove the request. (Ord. 501 § 2(1) (Exbt. A) (part), 1991)

**17.39.120 Provisions applicable to all density bonus development projects.**

The following provisions shall apply to both rental and ownership density bonus projects:

(a) All set-aside units shall have a bedroom mix and amenities representative of the project as a whole.

(b) The total number of housing units allowed under a density bonus shall be calculated by dividing the number of square feet of land available by the number of square feet required per housing unit under the applicable zoning designation, and multiplying the result by 1.25. If the result, including the density bonus, contains a fraction of a unit, the number of allowable units shall be determined by rounding that number down to the next lowest full unit.

(c) The provisions of this chapter shall run with the land and shall be binding upon future owners of properties within the development. Prior to the issuance of the first building permit for a project, the developer shall record deed restrictions in favor of the city which subject the rental, sales or resale of set-aside units to the provisions of this chapter for a period of thirty years (or a longer period of time for developments that receive federal, state or local construction or mortgage assistance, mortgage insurance or rent subsidies), except that the rental, sale and resale restriction for units for which no additional concession or incentive is granted shall be subject to the provisions of this chapter for a period of ten years. (Ord. 501 § 2(1) (Exbt. A) (part), 1991)

**17.39.130 Provisions applicable to rental density bonus development projects.**

The following provisions shall apply only to rental density bounus projects:

(a) Set-aside units shall be subject to the affordability requirements of this chapter for a period of thirty years (or a longer period of time for developments that receive federal, state or local construction or mortgage assistance, mortgage insurance or rent subsidies), beginning when the units are first available for occupancy, except that set-aside units for which no additional concession or incentive is granted shall be subject to

the conditions of this chapter for a period of ten years.

(b) Those units targeted for lower income households, as defined in Section 50079.5 of the Health and Safety Code, shall be affordable at a rental that does not exceed thirty percent of sixty percent of area median income; those units targeted for very low income households as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed thirty percent of fifty percent of area median income.

(c) The owner shall submit annually, and within thirty days of occupancy of a set-aside unit, a certificate of compliance, which shall include the name, address and income of each tenant currently occupying a set-aside unit; also a report of the occupancy of all set-aside units for the year prior to the submission of the certificate of compliance.

(d) The owner shall maintain and keep on file annual sworn and notarized income statements and current tax returns for all tenants occupying the set-aside units.

(e) The city shall have the right to inspect the owner's project-related records at any reasonable time and shall be entitled to audit the owner's records once a year.

(f) No subletting of rental set-aside units shall be allowed unless the sublessee qualifies as a very low or low income or senior citizen household and the combined income of all persons occupying the subleases premises, adjusted for family size, does not exceed the income limits set forth in this section. (Ord. 501 § 2(1) (Exbt. A) (part), 1991)

**17.39.140 Provisions applicable to  
ownership density bonus  
development projects.**

The following provisions shall apply only to ownership density bonus projects:

(a) At least twenty percent of the units allowed prior to adding in the density bonus units shall be sold to low income households, as defined in Section 50079.5 of the Health and Safety Code, or at least ten percent of the units allowed prior to adding in the density bonus units shall be sold to very low income households, as defined in Section 50105 of the Health and Safety Code, or at least fifty percent of the units allowed prior to adding in the density bonus units shall be sold to senior citizens, as defined in Section 51.3(c) of the Civil Code.

(b) All ownership set-aside units shall be occupied by their purchasers; no renting or leasing shall be allowed. (Ord. 501 § 2(1) (Exbt. A) (part), 1991)

## Chapter 17.40

## NONCONFORMING USES

## Sections:

- 17.40.010 Continuance of existing uses.
- 17.40.020 Limitations to applicability of provisions.
- 17.40.030 Use of lands without buildings or structures.
- 17.40.040 Enlargement, extension, reconstruction or alteration permitted when.
- 17.40.060 Applicability of provisions following redistricting.

**17.40.010 Continuance of existing uses.**

Except as otherwise provided in this chapter, uses of land, buildings or structures existing at the time of the adoption of the ordinance codified in this title may be continued, although the particular use, or the building or structure, does not conform to the regulations specified by this title for the district in which the particular building or structure is located or use is made; provided, however, no nonconforming structure or use of land may be extended to occupy a greater area of land, building or structure than is occupied at the time of the adoption of the ordinance codified in this title. If any nonconforming use is discontinued or abandoned, any subsequent use of such land or building shall conform to the regulations specified for the district in which such land or building is located. If no structural alterations are made therein, a nonconforming

use of a nonconforming building may be changed to another use of the same or more restrictive classification or a more restrictive nonconforming use, the occupancy thereafter may not revert to a less restrictive use. If any use is wholly discontinued for any reason except pursuant to a valid order of a court of law, for a period of one year, it shall be conclusively presumed that such use has been abandoned within the meaning of this title, and all future uses shall comply with the regulations of the particular district in which the land or building is located. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.40.020 Limitations to applicability of provisions.**

This chapter does not require the removal, lowering or other change or alteration of any structure not conforming to the regulations as of the effective date of the ordinance codified in this title or otherwise interfere with the continuance of any nonconforming use. Nothing contained in this chapter requires any change in the construction, alteration or intended use of any structure. (Ord. 445 § 2 (Exbt. A) (part), 1986)

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**17.40.030 Use of lands without buildings or structures.**

If any lands upon which no building or structure of any kind is located are used for a purpose which is not in compliance with the regulations of the district where such lands are located, such use may continue for a period of five years from the date of the adoption of the ordinance codified in this title. After the expiration of the five-year period, such lands shall be used only in conformance with the regulations of the district in which they are located. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.40.040 Enlargement, extension,  
reconstruction or  
alteration permitted when.**

Any building or structure existing at the date of the adoption of the ordinance codified in this title which is nonconforming either in use, design or arrangement shall not be enlarged, extended, reconstructed or structurally altered unless such enlargement, extension, reconstruction or alteration is in compliance with the regulations set forth in this ordinance for the district where such building or structure is located; provided, however, any such nonconforming building or structure may be maintained, repaired or portions thereof replaced so long as such maintenance, repairs or portions thereof replaced do not exceed twenty-five percent of the building's appraised valuation, as shown on the latest assessment roll of the city. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.40.060 Applicability of provisions  
following redistricting.**

This chapter applies to structures, land and uses which become nonconforming after the effective date of the ordinance codified in this title due to redistricting of any lands under this title. (Ord. 445 § 2 (Exbt. A) (part), 1986)

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such lands are located, such use may continue for a period of five years from the date of the adoption of the ordinance codified in this title. After the expiration of the five-year period, such lands shall be used only in conformance with the regulations of the district in which they are located. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.40.040 Enlargement, extension, reconstruction or alteration permitted when.**

Any building or structure existing at the date of the adoption of the ordinance codified in this title which is nonconforming either in use, design or arrangement shall not be enlarged, extended, reconstructed or structurally altered unless such enlargement, extension, reconstruction or alteration is in compliance with the regulations set forth in this ordinance for the district where such building or structure is located; provided, however, any such nonconforming building or structure may be maintained, repaired or portions thereof replaced so long as such maintenance, repairs or portions thereof replaced do not exceed

twenty-five percent of the building's appraised valuation, as shown on the latest assessment roll of the city. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.40.050 Restoration of damaged buildings—Use permit required when.**

A. A nonconforming building destroyed to the extent of more than fifty percent of its reasonable value at the time of its destruction by fire, explosion, or other casualty or act of God, may be restored and used only in compliance with the regulations existing in the district wherein it is located.

B. Any use for which a use permit is required by the terms of this title shall be considered a nonconforming use unless and until a use permit is obtained. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.40.060 Applicability of provisions following redistricting.**

This chapter applies to structures, land and uses which become nonconforming after the effective date of the ordinance codified in this title due to redistricting of any lands under this title. (Ord. 445 § 2 (Exbt. A) (part), 1986)

## Chapter 17.41

## INCLUSIONARY HOUSING

## Sections:

- 17.41.010 Title.
- 17.41.020 Purpose.
- 17.41.030 Definitions.
- 17.41.040 Applicability and exclusions.
- 17.41.050 General standards.
- 17.41.060 Procedures.
- 17.41.070 In-lieu housing fee.
- 17.41.080 Affordable housing fund.
- 17.41.090 Real property dedication.
- 17.41.100 Incentives.
- 17.41.110 Project application.
- 17.41.120 Conditions of development approval.
- 17.41.130 Program requirements.
- 17.41.140 Construction of units to avoid overconcentration.
- 17.41.150 Eligibility screening.
- 17.41.160 Affordability restrictions.
- 17.41.170 Affordability term.
- 17.41.180 Shared equity purchase program.
- 17.41.190 Early resale of shared equity properties.
- 17.41.200 Subordination of city financing.
- 17.41.210 Calculation of value and resale price.
- 17.41.220 Management and monitoring.
- 17.41.230 Enforcement and appeals.
- 17.41.240 Severability.

**17.41.010 Title.**

The provisions of this chapter shall be known collectively as the inclusionary hous-

ing ordinance of the city of Soledad. (Ord. 620 § 2 (part), 2005)

**17.41.020 Purpose.**

The purpose and intent of this chapter is to promote the public welfare by increasing the production and availability of affordable housing units, and to establish inclusionary housing requirements which implements general plan policies guiding land use and housing development. It is the intent of the city of Soledad to provide for a minimum of twenty percent of new housing units be affordable to moderate, low and very low income households (eight percent moderate income, six percent low income and six percent very low income). (Ord. 620 § 2 (part), 2005)

**17.41.030 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings set forth in this section:

“Affordable” means housing which can be purchased or rented by a household with very low, low, or moderate income. Units designated for purchase by lower income households shall be affordable according to income limits established by the state department of housing and community development for the county of Monterey. Units designated for rent by lower income households shall be affordable at rents that do not exceed thirty percent of sixty percent of area median income. Units designated for rent by very low income households shall be affordable at rents that do not exceed thirty percent of fifty percent of the area median income.

“Affordable housing agreement” means a written agreement between the developer, city and possibly additional parties which specify the terms and conditions under which affordable housing requirements are to be met.

“Affordable housing fund” means a fund established and administered by the city, containing in-lieu fees and other funds held and used exclusively to increase and improve the supply of affordable housing.

“Affordable housing project” means a development project in which one hundred percent of the dwellings to be built will be sold or rented in conformance with the city’s affordable housing standards.

“Building valuation” means the total value of the construction work for which a construction permit is required, as determined by the building official using the Uniform Building Code.

“Commercial mixed use project” means a development project involving primarily non-residential uses, including retail, office, commercial, industrial, and manufacturing uses as further described in the zoning regulations.

“Density” means residential density as defined in the appropriate sections of this code.

“Density bonus” means a density increase of at least twenty-five percent over the maximum density otherwise allowable under the zoning regulations.

“Development project” means an activity for which a subdivision map or construction permit is required, including new buildings and building additions or remodels, but not including changes in ownership, occupancy, management or use.

“Director” means the community development director or his/her authorized representative.

“Equity build-up” means a property’s sales price at first resale, less the initial purchase price and less the city’s equity share as described in Section 17.41.210 of this chapter.

“Expansion area” means a land area proposed for annexation to the city or annexed

after the adoption date of the ordinance codified in this chapter.

“Inclusionary housing unit” means a dwelling which is built under the provision of this chapter, and which meets the city’s affordable housing standards.

“In-lieu fee” means a fee paid to the city as an alternative to the production of inclusionary housing, to be used in the acquisition, construction, or rehabilitation of affordable housing.

“Low” or “lower income households” shall have the meaning set forth in California Health and Safety Code, Section 50079.5; provided the income of such persons and families shall not exceed eighty percent of the median income within the county.

“Market value” means the highest price a willing buyer would pay and willing seller would accept, both being fully informed and in an open market, as determined by an appraiser or other qualified professional. See also Section 17.41.210 of this chapter.

“Moderate income households” mean and include those persons and families whose incomes exceed eighty percent but are less than or equal to one hundred twenty percent of the median income within the county.

“Real property” means land and improvements, if any, including anything permanently affixed to the land, such as buildings, walls, fences and paved areas.

“Residential project” means development projects which result in the subdivision of land and/or the construction or conversion of dwellings, including, but not limited to: single-family detached homes, apartments, condominiums, live/work studios, manufactured homes, and group housing.

“Very-low income” shall have the meaning set forth in California Health and Safety Code, Section 50105; provided that such income

level shall not exceed fifty percent of the median income within the county. (Ord. 620 § 2 (part), 2005)

**17.41.040 Applicability and exclusions.**

A. This chapter shall apply to development projects consisting of five or more lots or new dwelling units, and to commercial development projects consisting of two thousand five hundred square feet of gross floor or larger.

B. The following types of development projects are excluded:

1. Residential developments of four units or less;
2. New commercial developments of less than two thousand five hundred square feet gross floor area;
3. Residential and commercial building additions, repairs or remodels, provided that such work does not increase the number of existing dwellings by four or more units; or result in an increase in gross floor area of two thousand five hundred square feet;
4. The conversion of less than five dwelling units to condominiums within any five-year period;
5. Commercial condominium conversions which do not result in the creation of new dwellings;
6. Affordable housing projects;
7. Emergency projects, or projects which the city council determines are necessary to protect public health and safety;
8. Development projects which the city council determines are essentially noncommercial or nonresidential in nature, which provide educational, social, or related services to the community and which are proposed by public agencies, nonprofit agencies, foundations and other similar organizations;

9. Projects which replace or restore a structure damaged or destroyed by fire, flood, earthquake or other disaster within three years prior to the application for the new structure(s);

10. Projects for which an approved tentative map or vesting tentative map exists, or for which a construction permit was issued prior to the effective date of the ordinance codified in this chapter and which continue to have unexpired permits. (Ord. 620 § 2 (part), 2005)

**17.41.050 General standards.**

A. **Methods of Meeting Requirements.** New development projects shall satisfy the inclusionary housing requirements of the city's housing element. To meet the requirements, the developer may suggest one or more of the following methods, subject to approval of the city of Soledad:

1. Construct the required number of affordable dwelling units;
2. Dedicate real property for affordable housing;
3. In-lieu fees;
4. Use a combination of the above methods, to the approval of the city council;
5. Inclusionary units should be similar in size and design to market rate units within the development.

B. **Affordable Housing Standards.** Affordable dwelling units constructed must meet city affordable housing standards, and must be consistent with affordability policies in the general plan housing element.

C. **Concurrent Development.** The required inclusionary units shall be constructed concurrently with market rate units unless the developer and the city council agree within an affordable housing agreement to an alternative development schedule. (Ord. 620 § 2 (part), 2005)

**17.41.060 Procedures.**

A. Fractional Numbers. In determining the number of dwellings that are required to be built, fractional units less than 0.50 shall be rounded down to the first whole number unit, and fractional units of 0.50 or greater shall be rounded up to the next higher whole number unit, as calculated by the director.

B. Timing. The inclusionary housing requirement shall be met prior to issuance of a certificate of occupancy for the first unit in a building, or the first building in a complex to be constructed or remodeled; or for subdivisions, prior to final map approval; or prior to building permit issuance, for projects for which a certificate of occupancy is not issued; or as otherwise agreed to by the city council as part of the tentative map, rezoning, conditional use permit or other development approval.

C. Affordable Housing Agreement. To meet the requirements, the developer may enter into an agreement with the city, the city's housing authority, nonprofit housing provider, or other qualified housing provider approved by the city council to construct, refurbish, convert, operate and maintain the required affordable housing. Such affordable housing agreements shall be to the approval of the city council and shall be in a form approved by the city attorney. (Ord. 620 § 2 (part), 2005)

**17.41.070 In-lieu housing fee.**

A. Payment of In-Lieu Fee. Developer and city council may agree to allow payment of a fee to the city in lieu of constructing affordable dwellings to meet this requirement. The developer shall submit a report identifying all overriding conditions impacting the project that prevent the developer from meeting the requirements of this section.

B. Amount and Method of Payment. The dollar amount and method of payment of the in-lieu fee shall be as approved by the city council.

C. Timing. In-lieu fees shall be paid prior to issuance of the certificate of occupancy of the first dwelling within a residential development; or for residential subdivisions to be built out by others, prior to final subdivision map approval; or prior to occupancy for new commercial buildings or remodels; or prior to building permit issuance, for projects for which a certificate of occupancy is not issued; or as otherwise provided by written agreement between the developer and city, to the approval of the community development director. (Ord. 620 § 2 (part), 2005)

**17.41.080 Affordable housing fund.**

A. Affordable Housing Fund Established. The city hereby establishes an affordable housing fund. Such fund shall be administered by the finance director and shall be used exclusively to provide funding for the provision of affordable housing and for reasonable costs associated with the development of affordable housing, at the discretion of the city council.

B. In-Lieu Fees. In-lieu fees collected shall be deposited into the affordable housing fund, to the satisfaction of the finance director. (Ord. 620 § 2 (part), 2005)

**17.41.090 Real property dedication.**

A. Irrevocable Offer to Dedicate Real Property. At the discretion of the city council, an irrevocable offer to dedicate real property equal or greater in value to the in-lieu fee which would otherwise be required may be offered to the city, or to a housing provider designated by the city, instead of providing the required number of affordable dwellings or paying in-lieu fees. In considering an offer

to dedicate real property, the city council must find that the dedication of real property will provide an equal or greater public benefit than constructing affordable units or paying in-lieu fees, based on the following criteria:

1. Valuation of the land and/or improvements to be dedicated relative to other methods of meeting the requirement;
2. Suitability of the land and/or improvements for housing, including general plan conformity, size, shape topography and location; and
3. Feasibility of developing affordable housing, including general plan consistency, and availability of infrastructure.

B. Real Property Valuation. The valuation of real property offered in-lieu shall be determined by the community development director, based upon an appraisal made by a qualified appraiser mutually agreed to by the developer and the city. Costs associated with the appraisal, title insurance and transfer, recordation and related costs shall be borne by the developer.

C. Agreement and Timing. The real property dedication shall be by deed or other instrument acceptable to the city, and shall be completed by recordation with the recorder of the county of Monterey or to occupancy release of the first residential unit or commercial building in the development; or prior to building permit issuance, for projects for which a certificate of occupancy is not issued; or as otherwise provided by written agreement between the developer and the city. (Ord. 620 § 2 (part), 2005)

#### **17.41.100 Incentives.**

A. Eligibility for Incentives. The developer may be eligible to receive, or to request development incentives in return for constructing affordable housing in connection

with a development project, as part of a city planning application. Such incentives may include density bonus, waiver/modification of development or zoning standards, priority of application processing prior to applications which do not include affordable units, deferral of city required fees for payment until issuance of the certificate of occupancy or other incentives or concessions agreed to between the developer and city council. Incentives or other forms of financial assistance may be offered by the city to the extent that resources are available for this purpose and to the degree that such incentives or assistance will help achieve the city's housing goals.

B. Affordable Housing Agreement. Any incentives provided by the city, beyond those incentives to which a developer may be automatically entitled to shall require city council approval and shall be set out in an affordable housing agreement. The form and content of such agreement shall be to the approval of the city attorney and the community development director. Developers are further encouraged to utilize other local, state or federal assistance, when available, to meet the affordable housing standards. (Ord. 620 § 2 (part), 2005)

#### **17.41.110 Project application.**

A. Method of Application. An applicant/developer proposing a project for which affordable housing is required shall submit a statement with the standard planning application, describing the inclusionary housing proposal. The developer's statement shall include:

1. A brief description of the proposal, including the method chosen to meet the inclusionary housing requirement, number, type and location of affordable units, term of affordability, preliminary calculation of in-lieu fees, or offer of land dedication;

2. How the proposal meets general plan policies and inclusionary housing requirements;

3. Plans and other exhibits showing preliminary site layout, grading, building elevations, parking and other site features, location of affordable dwelling units and (where applicable), market-rate dwelling unit;

4. Description of incentives requested, including exceptions from development standards, density bonuses, fee waivers or other incentives; and

5. Other information which the community development director determines necessary to adequately evaluate the proposal.

B. Director Response. After receiving a complete planning application, including an affordable housing proposal, the director shall respond to the applicant or developer's affordable housing proposal. The city response shall identify: 1) affordable housing issues and concerns; 2) incentives which the director can support when making a recommendation to the decision-making body; and 3) procedures which will need to be followed to comply with the inclusionary housing requirements. (Ord. 620 § 2 (part), 2005)

#### **17.41.120 Conditions of development approval.**

A. Submittal of an Affordable Housing Agreement. Applicants and developers for development projects subject to this chapter shall, as a condition of development approval, prepare and submit an affordable housing agreement for city approval. The draft agreement shall be reviewed by the community development director and city attorney for compliance with project approvals, city policies and standards, and applicable codes. Following approval and signing of the agreement by the parties, the final agreement shall be re-

corded and relevant terms and conditions shall be recorded as a deed restriction on those lots or affordable units subject to affordability requirements. The affordable housing agreement shall be binding to all future owners and successors in interest.

B. Agreements for Construction of Affordable Units. For development projects meeting their inclusionary requirement through construction of affordable dwelling units, the affordable housing agreement shall specify:

1. The number and location of affordable units;
2. The size (square footage), number of bedrooms, and design of the affordable units;
3. Terms of affordability;
4. Schedule for construction of the affordable units;
5. Incentives or other assistance to be provided by the city;
6. Where applicable, the procedures to be used for qualifying tenants or buyers, setting rental/sales costs, renting or selling units filling vacancies, and managing the units; and
7. Other terms or conditions requested by city.

C. Agreements for Real Property Dedication. For development projects meeting their inclusionary housing requirement through real property dedication, the agreement shall specify:

1. The method of conveyance, schedule, and appraised value of the proposed dedication;
2. Calculation of housing in-lieu fees otherwise applicable to the project at the time of recordation;
3. Title report and insurance;
4. Description of location, condition, improvements, and other relevant factors applying to the property; and

5. Other information required by the city.

D. Payment of In-Lieu Fees. An affordable housing agreement shall not be required for projects which meet their inclusionary housing requirement through the payment of in-lieu fees. (Ord. 620 § 2 (part), 2005)

**17.41.130 Program requirements.**

Only households qualifying as very low, low or moderate income, pursuant to the affordable housing standards, shall be eligible to rent, purchase or occupy inclusionary units developed or funded in compliance with this requirement. For sale inclusionary housing units shall be owner occupied for the term of the affordable housing agreement. (Ord. 620 § 2 (part), 2005)

**17.41.140 Construction of units to avoid overconcentration.**

The following principles shall apply to the development of inclusionary housing: (1) The development proposal shall provide for the dispersal of inclusionary units to the maximum extent feasible. (2) Multifamily buildings may contain any proportion of inclusionary units, but no inclusionary housing development should be located to or in the immediate vicinity of another inclusionary housing development. (Ord. 620 § 2 (part), 2005)

**17.41.150 Eligibility screening.**

The city or other housing provider designated by the city shall screen prospective renters or buyers of affordable units. Renters or buyers of affordable units shall enter into an agreement with city or other housing provider to comply with the affordable housing standards. (Ord. 620 § 2 (part), 2005)

**17.41.160 Affordability restrictions.**

Developers of affordable units for sale shall specify the type of affordability restriction to be applied. These restrictions may include, inclusionary housing agreements, promissory notes, deeds of trust, resale restrictions, rights of first refusal, options to purchase and/or other documents, which shall be recorded against the inclusionary units. The developer may participate in a shared equity purchase program. Affordable rental units shall be available in perpetuity. (Ord. 620 § 2 (part), 2005)

**17.41.170 Affordability term.**

The term of the covenant shall be at least forty-five years from the date of the covenant. If an owner occupies the unit for the full term, the controls expire and the owner may sell the unit to any buyer for any price. However, if the owner sells the unit during the term of the covenant, the new owner will be required to sign and record a new covenant which begins a new forty-five-year period of price and occupancy restrictions. This requirement will continue for each new owner of the unit, but in no event will the total period of controls exceed ninety years. (Ord. 620 § 2 (part), 2005)

**17.41.180 Shared equity purchase program.**

Under this program, the qualified buyer of designated affordable dwelling unit shall enter into a shared equity agreement with the city. Such agreement shall be recorded as a second trust deed against the purchase property, at no interest, securing and stating the city's equity share in the property. The city's equity share shall be calculated by the community development director, and shall be the decimal percentage of the property's value resulting from:

A. The difference between the property's market value and the actual price paid by the homeowner, divided by the market value, and/or when applicable;

B. The amount of subsidy provided by the city to the homeowner to purchase the property, divided by the property's market value.

Upon sale, the city's equity share shall be repaid to the city from the proceeds of the sale, less the city's percentage share of title insurance, escrow fees and documentary transfer taxes, at the close of escrow. (Ord. 620 § 2 (part), 2005)

**17.41.190 Early resale of shared equity properties.**

In the event of "early resale," owners of properties subject to the shared equity purchase program shall either 1) pay an equity recapture fee to the city as described in the schedule below, in addition to the city's equity share, or 2) sell the property to another eligible household. "Early resale" means the sale, lease or transfer of property within five years of the initial close of escrow. If owner chooses to pay the equity recapture fee, the recapture fee shall be paid to the city upon resale at close of escrow, based on the following schedule:

Year	% of Equity Build-up Recaptured
0—2	100%
3	75%
4	50%
5	25%
6 and after	0%

The recapture amount shall be determined prior to the calculation of escrow closing costs. (Ord. 620 § 2 (part), 2005)

**17.41.200 Subordination of city financing.**

A. When the city provides low interest financing to assist affordable housing projects and the buyers of individual units, the city's financing is almost always secured by a deed of trust recorded subordinate to financing from other institutions. Often the owners wish to refinance the senior institutional financing to obtain a lower interest rate while keeping the city's loan in place. In such cases, the new lender requires the city to subordinate its deed of trust to the new financing, so the new financing retains priority in the event of default.

B. Generally the city will approve subordination requests when:

1. The borrower is refinancing solely for the purpose of obtaining a lower interest rate;
2. The borrower is taking no cash out of the transaction;
3. The new institutional loan is fully amortized with no balloon payment; and
4. The subordination does not place the city loan at greater risk.

C. Generally the city will not approve subordination requests when:

1. The senior institutional financing is deferred or only partially amortized, and the borrower proposes to take cash out of the transaction;
2. The new institutional financing may result in negative amortization (unless the city is satisfied that there is adequate owner equity (at least twenty to twenty-five percent) and excellent credit history);
3. The subordination places the city loan at significantly greater risk;
4. The borrower is not in full compliance with the city's affordability requirements; or
5. The refinancing exceeds the value of affordability as determined by the calculation

of value and resale price. (Ord. 620 § 2 (part), 2005)

**17.41.210 Calculation of value and resale price.**

The affordable units must remain affordable to very low, low or moderate income households in the community. Affordability is assured upon the sale of any affordable unit through the covenant, which sets forth the formula for calculating the maximum allowable price at any given time and/or upon resale.

A. Standard Value/Resale Formula. To set the price of the unit at any given time or upon resale, staff starts with the price paid by the current owner and increases that price by the percentage increase in area median income (AMI) during the period in which the owner owned the property. Below is a formula to calculate the value of the unit:

(FMV of market home - affordable unit value) x (2.222% x (year affordable unit built - year affordable unit sold)) = home value/equity)

For purposes of this section, fair market value of market home shall mean the appraised value of a home equivalent in size and number of bedrooms and bathrooms of that of the affordable unit. The value of the affordable unit may be determined for purposes of resale, refinancing, and/or accessing a line of credit on the home. At no time shall refinancing of the unit or access to a line of credit exceed the value of the affordable unit. The owner of the affordable unit is responsible for the full cost of the appraisal. The city must certify the appraisal but reserves the right to challenge the market rate value.

B. Mid-Year Adjustment. The value of the unit is typically established annually. To allow for some projected increase in valuation/sales price within a calendar year, the following calculation shall be allowed:

Standard allowed percentage x # of months = mid-year percentage rate

For example, if an affordable unit was sold in August, and the standard allowed percentage is 2.222% the mid-year adjustment would be calculated as follows:

$2.222\% \times (9 \text{ months} / 12 \text{ months}) = 1.666\%$

If the seller had bought the affordable unit for two hundred fifty thousand dollars, the mid-year adjustment would amount to an increased value of four thousand one hundred sixty-five dollars.

C. Sale Prior to Expiration of Forty-Five Year. If the owner sells the unit during the term of the covenant, the new owner will be required to sign and record a new covenant which begins a new forty-five-year period of price and occupancy restrictions.

To sales price of the unit cannot exceed either 1) the value of the unit as determined through calculation of value and resale price in subsection A of this section, or 2) a price established by agency which will make such home available for purchase at affordable housing costs to household of very low, low or moderate income, or 3) HCD's income guidelines for very low, low or moderate, income, whichever is applicable, at the time of sale. The maximum allowable sale price in each category must be affordable to a hypothetical buyer in that income category. The price is set such that the buyers' monthly payments for mortgage, taxes and insurance

do not exceed forty-three percent of the buyer's target income (See Exhibit A).

The formula to calculate the unit value includes assumptions for interest rate, property taxes and insurance, which can be updated annually based on market changes. It also varies with changes in the AMI, which is updated annually.

To determine the value of the homes based on the monthly mortgage as calculated in Exhibit A, a calculation will have to be determined working backwards assuming a forty-three percent debt to equity ratio. A mortgage lender will calculate the value of the home based on the mortgage as outlined in the schedule with a debt to equity ratio. (Ord. 620 § 2 (part), 2005)

**17.41.220 Management and monitoring.**

Inclusionary rental units shall be managed and operated by the property owner, or the owner's agent, for the term of the affordable housing agreement. Sufficient documentation shall be submitted to ensure compliance with this chapter, to the satisfaction of the community development director. (Ord. 620 § 2 (part), 2005)

**17.41.230 Enforcement and appeals.**

A. Enforcement. No final subdivision map shall be approved, nor building permit issued, nor shall any other development entitlement be granted for a development project which does not meet these requirements. No inclusionary unit shall be rented or sold except in accordance with these requirements and the affordable housing standards.

B. Appeals. The community development director shall administer and interpret these requirements, subject to applicable codes and city procedures. Decisions of the director are

appealable, subject to the zoning ordinance appeal provisions. (Ord. 620 § 2 (part), 2005)

**17.41.240 Severability.**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of the provision to other persons or situations shall not be affected thereby. (Ord. 620 § 2 (part), 2005)

## Chapter 17.42

**ZONING COMPLIANCE  
CERTIFICATES—CONDITIONAL USE  
PERMITS—VARIANCES**

## Sections:

- 17.42.010**      **Certificates of zoning compliance.**
- 17.42.015**      **Temporary use permit.**
- 17.42.020**      **Application for conditional use permit or variance.**
- 17.42.030**      **Public hearing and notice.**
- 17.42.040**      **Action by planning commission.**
- 17.42.050**      **Use permits—Planning commission granting authority—Findings required.**
- 17.42.060**      **Variance—Findings and conditions.**
- 17.42.070**      **Duration—Revocation—Transferability.**
- 17.42.080**      **Penalty for use permit and variance violations—Continuing violations.**
- 17.42.010**      **Certificates of zoning compliance.**

No person shall occupy or use a building, structure or site, or carry on any activity in any such building, structure or site, other than a dwelling unit, until the planning director has issued a certificate of zoning compliance certifying that in all respects the building and site, and the activity to be conducted therein, is in full conformance with the provisions of this title for the district in question, including all of the conditions attached to the issuance of a conditional use permit or a variance, as well as to all conditions attached to an ap-

proval by the architectural review committee, when such approval is required. The certificate shall be issued upon the completion of the building or structure, or prior to the commencement of any use of land not requiring the construction of a building. No separate application need be made for said certificate. Whenever the use of a building or land shall change from the activity for which a certificate of zoning compliance was issued to a different use, a new certificate of zoning compliance shall be secured. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.42.015**      **Temporary use permit.**

A. Purpose. To ensure the protection, health, safety and welfare of the citizens of the city, while still providing for their pleasure and convenience. The planning director may issue a permit for the establishment of temporary uses within the city in accordance with the following procedure and conditions; however, at the discretion of the planning director, or at the request of the planning commission, any application may be referred to the planning commission for consideration.

B. Temporary Use Permit Required. Prior to the establishment of any temporary uses identified in subsection C of this section on any lot or parcel in the city, a temporary use permit shall be obtained from the community development department:

1. Temporary use permit requests shall be submitted to the community development department no later than thirty days prior to the event to allow proper review by affected city departments;

2. Temporary use permits shall be issued no more than four times within a calendar year to any individual, agency, business or corporation.

C. Allowable Temporary Uses. The following uses, and uses determined by the planning director to be similar, may be allowed subject to first obtaining a temporary use permit:

1. Sales offices for the sale of new homes, when located on the site of an approved residential subdivision;
2. Commercial carnivals, circuses, musical concerts and similar events and congregations of people when conducted on private property and when involving more than one hundred people;
3. Commercial Christmas tree lots, Halloween pumpkin sales, Fourth of July fireworks, food stands, promotions and sales taking place on public or private properties;
4. Commercial car washes, of no more than four days each month at any location;
5. Street closures, farmers markets, or craft shows of not more than four days per month, taking place on public property or private properties, in appropriately zoned commercial areas and when having obtained any other necessary approvals including, but not limited to, the following: obtaining a business license, health department permit, or ABC temporary license where applicable. Requirements shall be determined upon internal city review of the temporary use permit application;
  - a. Events taking place on public property within the city of Soledad shall require proof of insurance in an amount specified by the city attorney naming the city of Soledad as additionally insured,
  - b. For-profit entities shall be required to pay the temporary use application fee and any other associated fees required to process the temporary use permit request,
  - c. For-profit entities shall be required to pay for any services provided by the city,

d. Non-profit entities shall be exempt from the payment of temporary use permit fees. However, non-profit entities shall be required to present the city of Soledad with proof of IRS non-profit status.

D. Exempt Temporary Uses. The following temporary uses are exempt from the requirement for a temporary use permit, but shall obtain and sign an over the counter regulations form available at the city of Soledad city hall and may be subject to additional fees and requirements as deemed applicable:

1. Celebrations and similar events including vendors and services, and congregations of people when conducted on a city park and when having obtained a city park reservation;
  - a. For-profit entities are required to meet the city of Soledad's insurance and business license requirements,
  - b. Non-profit entities are required to show proof of insurance, as well as documentation of IRS non-profit status,
  - c. Parties of twenty people or less, held by private citizens, are not required to meet the city of Soledad's insurance requirement, and need only obtain a city park reservation;
2. Contractors construction yards located on the site of an approved construction project;
3. Contractors mobile office, when located on the site of an approved construction project;
4. City co-sponsored events in combination with non-profit entities requesting in-kind services;
  - a. All fee waiver requests shall be reviewed and determined by the city council,
  - b. Events requesting the use of city staff or equipment for "in-kind" services shall be reviewed and determined by the city council;
5. Temporary use activities conducted entirely within a structure or yard area that is

legally occupied by an existing business or organization including churches and educational facilities; however, for-profits may be required to obtain a city of Soledad business license prior to the commencement of the event;

6. Car washes not exceeding two days per month at any location;

7. Emergency facilities and offices providing for public health needs, disaster coordination for such events as earthquakes, fires, floods, etc.

E. Permit Applications and Issuance. Applications for temporary use permits initiated by for-profit entities shall be subject to the fee established for a Class I use permit and shall be submitted on forms maintained by the community development department. Information requirements shall be determined on a case-by-case basis at the time of application:

1. Temporary use permit requests shall include a written statement of operations sufficient for the planning director to fully understand the request including but not limited to the following: a site plan illustrating the location and arrangement of the proposed use, internal and external pedestrian and vehicular access, signage, lighting, the placement of trash receptacles, restroom facilities, proposed security measures, and potentially affected adjacent land uses;

2. A temporary use permit may be issued for a maximum period of one year upon a written report, accepted by the applicant, containing the findings set forth in Section 17.42.050 and incorporating such conditions as determined by the planning director to be necessary to protect the public health, safety and welfare.

F. Conditions of Site Following Use. Each site occupied by a temporary use shall be cleaned of debris, litter or any other evidence

of the temporary use upon completion or removal of the use and shall thereafter be used in compliance with these regulations. The planning director may require a bond or other financial security to ensure compliance with this subsection. Upon determination that the site has been restored to its original condition, the full amount of the security shall be returned to the applicant within thirty days of the termination of the use. If the site has not been restored to the original condition, the city shall have the right to apply up to the full amount of the security to the cost of site cleaning and restoration. (Ord. 608 § 2, 2004; Ord. 568 § 3, 2000)

#### **17.42.020 Application for conditional use permit or variance.**

Application for a conditional use permit or a variance may be made to the planning commission by the owner of record of property for which the conditional use permit or variance is sought, or by an agent having written authorization from the owner to do so, on a form prescribed by the planning commission and shall be accompanied by maps, drawings and information required to demonstrate that the conditions under which such a permit may be issued pursuant to the provisions of this chapter apply to the subject property. Application for a conditional use permit or variance shall be accompanied by a fee in the amount specified from time to time by resolution of the city council. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.42.030 Public hearing and notice.**

Upon receipt of an application for a conditional use permit or variance, the planning director shall set a date for a public hearing by the planning commission, which shall be held within forty-five days after the date of filing of the application. Notice of hearing shall be

mailed at least ten days prior to the date of the hearing to the applicant, to owners of record of real property within three hundred feet of the exterior boundaries of the subject property as shown on the last equalized assessment roll, and to occupants of said real property, if other than the owner. The notice shall contain:

- A. The name and address of the applicant;
- B. The address or location of the subject property;
- C. The time and place of the hearing;
- D. A brief description of the permit or variance being sought;
- E. Reference to the application on file for particulars; and
- F. A statement that any interested person may appear and be heard. (Ord. 445 § 2 (Exbt. A) (part), 1986)

A. That the proposed use will be consistent with the general plan and all applicable specific plans adopted by the city; and

**17.42.040 Action by planning commission.**

At the time and place set for the hearing the planning commission shall hear evidence for or against the application, and may continue the hearing from time to time. At the conclusion of the hearing the commission shall make findings and render its decision on the application, and notice of the decision shall be mailed to the applicant and to any other person requesting notice. A conditional use permit shall take effect ten days following the mailing of the notice of decision, unless an appeal of the decision is filed as provided in Chapter 17.46. (Ord. 608 § 3, 2004; Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.42.050 Use permits—Planning commission granting authority—Findings required.**

An application for a use permit may be granted by the planning commission if it finds:

B. That under the circumstances of the particular case the establishment, maintenance or operation of the use will not be detrimental to the health, safety, comfort, convenience or general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental to property and improvements in the neighborhood or to the general welfare of the city. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.42.060 Variance—Findings and conditions.**

The planning commission may grant a variance from the requirements of this title applicable within any district if, from the application and the evidence presented at the public hearing, it finds:

A. That there are exceptional or extraordinary circumstances or conditions applicable to the subject property that do not apply generally to property in the same district and in the vicinity;

B. That the granting of the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship; and

C. That the granting of the application will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare, or convenience. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.42.070 Duration—Revocation—Transferability.**

A. A conditional use permit or variance becomes null and void if not used within one year following its effective date, or within such shorter time as is specifically prescribed as a condition of the conditional use permit or

variance. The planning commission may, without hearing, extend the time for a maximum period of one additional year only, upon application filed with it before the expiration of the one year or shorter period.

B. In any case where the conditions of a conditional use permit or variance have not been or are not being complied with, the planning commission shall give written notice to the permittee of intention to revoke the conditional use permit or variance and shall set a date for a public hearing upon such proposed revocation. The notice shall be served on the owner of the subject property by mailing the notice to the owner at the address shown on the last equalized assessment roll at least ten days prior to the date of the hearing, and specify the time and place when and where it will be held. Following the hearing, and if the planning commission finds that there is good cause therefor, the commission may revoke the conditional use permit or variance.

C. Unless specifically provided otherwise as a condition of a conditional use permit or variance, a valid use permit or variance granted pursuant to this chapter is transferable to the successors in interest of the original grantee.

**17.42.080 Penalty for use permit and variance violations—Continuing violations.**

The violation by any person of any provision or condition of a use permit or variance granted under the terms of this title is an infraction, punishable as provided in Section 1.04.030 of this code. Each such

person is guilty of a separate offense for each and every day during any portion of which such a violation is committed, continued or permitted, and shall be punished accordingly. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**Chapter 17.43****SIGNS****Sections:**

<b>17.43.010</b>	<b>Purpose and scope.</b>
<b>17.43.020</b>	<b>Sign permits required.</b>
<b>17.43.030</b>	<b>Sign area measurement.</b>
<b>17.43.040</b>	<b>Requirements for temporary signs.</b>
<b>17.43.050</b>	<b>Exempted signs.</b>
<b>17.43.060</b>	<b>Prohibited signs.</b>
<b>17.43.070</b>	<b>Restrictions on location.</b>
<b>17.43.080</b>	<b>Regulations by district.</b>
<b>17.43.090</b>	<b>General requirements for wall signs.</b>
<b>17.43.100</b>	<b>Window signs.</b>
<b>17.43.110</b>	<b>Requirements for projecting signs.</b>
<b>17.43.120</b>	<b>Requirements for freestanding signs.</b>
<b>17.43.130</b>	<b>Signs on awnings.</b>
<b>17.43.140</b>	<b>Wall graphics.</b>
<b>17.43.150</b>	<b>Special purpose signs.</b>
<b>17.43.160</b>	<b>Requirements for election signs.</b>
<b>17.43.170</b>	<b>Classification of signs.</b>
<b>17.43.180</b>	<b>Construction and maintenance.</b>
<b>17.43.190</b>	<b>Abandoned signs.</b>
<b>17.43.200</b>	<b>Nonconforming signs.</b>
<b>17.43.210</b>	<b>Abatement procedures.</b>
<b>17.43.220</b>	<b>Appeals.</b>

**17.43.010 Purpose and scope.**

A. Purpose. The city finds that control of the size, design, and location of signs is necessary to the protection of the public health, safety, welfare, and aesthetics of the community. The purpose of this chapter is to establish uniform sign regulations in the city to:

1. Maintain and enhance the city's appearance by regulating the design, character, location, number, type, quality of materials, size, illumination, and maintenance of signs;

2. Eliminate traffic safety hazards to pedestrians and motorists caused by signs that would create distractions or reduce visibility;

3. Minimize the possible adverse effects of signs on nearby public and private property;

4. Generally limit commercial signage in order to protect the aesthetic environment from the visual clutter associated with the unrestricted proliferation of signs, while providing channels of communication to the public;

5. Allow the communication of information for commercial and noncommercial purposes without regulating the content of non-commercial messages;

6. Allow the expression of political, religious, and other noncommercial speech at all times and allow for an increase in the quantity of such expression in the period preceding elections;

7. Respect and protect the right of free speech by sign display, while reasonably regulating the structural, locational, and other non-communicative aspects of signs, generally for the public health, safety, welfare, and, specifically, in promoting traffic and pedestrian safety and community aesthetics; and

8. Enable the fair, consistent, and efficient enforcement of the sign regulations of the city.

B. Scope. The provisions of this section apply to all permanent and temporary signs located in the city. Where this section is inconsistent with any other provision contained in this code, the provisions of this section shall control except as otherwise provided by this title. Notwithstanding the aforesaid, in all cases where the inconsistency relates to the

structural safety of a sign, the provisions of the California building codes as adopted by the city shall be controlling. (Ord. 660 § 3 (Exbt. B) (part), 2008)

**17.43.020 Sign permits required.**

A. Requirement for Sign Permit. No person shall erect any temporary or permanent sign upon any billboard, fence, post, pole, tree, building or other structure within the city, without first obtaining a sign permit from the community development director issued in conformity with the provisions of this section, except as otherwise provided. For purposes of this section, an existing sign that is moved shall be considered to be a new sign. Every sign permit expires and becomes null and void if installation of the sign is not commenced within six months from the date the permit is issued, unless associated with an active building permit or discretionary approval.

B. Application for Permit. An application for a permit for each sign or master sign plan shall be made to the community development director in such form and containing such information as the director may prescribe. The application shall be accompanied by the written consent of the owner, lessee, or person having possession of the property upon which the sign is to be located.

C. Master Sign Plan Required. Approval of a master sign plan by the architectural review committee is required for a shopping center, business park or buildings with three or more nonresidential tenants on a single site. The master sign plan shall conform to all provisions of this chapter except as may otherwise be provided herein. Once approved, all individual business or tenant signs in that center, complex or building shall conform to the master sign plan.

D. Permit Fee. Fees for issuance and/or renewal of sign permits shall be paid to the director in accordance with a schedule of fees established from time to time by resolution of the city council.

E. Waiver of Permit Fees and Bond Requirements. Permit fees and removal bond requirements may be waived by the city council with respect to temporary signs conforming to the provisions of this section when erected or posted by nonprofit civic, religious, educational, charitable, historical or cultural groups or organizations in connection with public events conducted by or participated in by such organizations. Such signs shall remain subject to the permit requirement, but any number of such signs may be covered by a single permit. The permit shall require the permittee to remove all signs posted or erected thereunder within a period of time stated in the permit, or to pay all costs incurred by the city in removing the same. The permit application shall include the agreement of the person signing the application, and of the organization he or she represents, binding them jointly and severally to pay such costs to the city, on demand.

F. Permit Issuance and Design Approval. It is the duty of the community development director, upon the filing of an application for a sign permit, to examine the plans and specifications and other submitted data, and the premises upon which the sign is proposed to be located. If it appears that the proposed sign is in compliance with the provisions of this section and other laws and ordinances of the city, the Community Development Director shall approve the application, except that the director shall refer to the architectural review committee for approval: (1) signs that are considered to be of such unusual style, composition or configuration as to require design ap-

proval by that body; or (2) signs in a H-C Highway Commercial, C-C Community Commercial or M-Industrial district or on lots exceeding one acre in area in any district as provided by Section 17.43.080 herein.

G. Architectural Review Committee Review and Action. The architectural review committee shall review the plans, specifications, and data submitted to it by the community development director and shall recommend, approve, conditionally approve or disapprove the application consistent with the provisions of this chapter and the other laws and ordinances of the city.

H. Exceptions Allowed. Exceptions to the maximum height and sign area provisions of this chapter may be approved by the community development director or architectural review committee provided that such exception is for a permitted sign and does not exceed the maximum height and/or area limitation by ten percent, except as otherwise provided by this chapter.

I. Revocation of Permit. Any permit issued under this section may be revoked by the planning commission, or the city council if the city council was the approving body, when it is shown by satisfactory proof that the application for the permit contained any material misrepresentation of fact, or that the sign was erected or used in any manner not in substantial compliance with the plans, specifications or location as shown in the application and accompanying data, or that it was erected or used in a manner not in substantial compliance with any condition, restriction, provision or modification imposed by the architectural review committee in approving the application. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.030 Sign area measurement.**

Sign area shall be determined by measuring the area or square footage within the smallest rectangle or rectilinear perimeter of a sign face, excluding the sign framework, base or supporting structure, unless the base or supporting structure of the sign is part of the message presentation. The area of a pylon sign shall be the sum of the square footage of the individual cabinet signs, excluding air gaps. In computing the area of a double-face sign, only one face shall be included, provided that the two faces are approximately of the same size and approximately parallel to each other and not more than two feet apart at any point. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.040 Requirements for temporary signs.**

A. Bond Required. Except as otherwise provided, issuance of a temporary sign permit shall require a cash or surety bond in favor of the city to guarantee the removal of each sign within the time limitations specified in the permit, the amount of which shall be established by resolution of the city council.

B. Bond Forfeiture. Signs that are not removed within seven days of the time specified in the permit may be removed by the community development director, in which case the bond is forfeited.

C. A temporary sign permit authorizes the erection and maintenance of the sign or signs for a period not to exceed thirty days. Within five days of expiring, a temporary sign permit, other than for special events and grand openings, may be renewed for one additional maximum period of thirty days. Shorter limitations on length of display may be enacted by other provisions of this section. No more than one temporary sign permit with extension may be issued to a business during a six-month

period for banners advertising special promotions or sales.

D. Temporary signs shall be affixed to the principal building and shall not project above the roofline. Temporary signs on windows shall not occupy more than twenty-five percent of the total window area.

E. Temporary signs not relating to a business conducted on the premises shall not exceed four square feet in area per sign, or five in number.

F. The city shall not grant additional sign permits for election signs nor allow additional election signs under the provisions of this section. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.050 Exempted signs.**

A. No permit or removal bond is required for any of the following types of signs, but such signs shall be erected and maintained in accordance with the provisions of this section:

1. Public signs and notices required or specifically authorized by law, statute or ordinance, which may be of any type, number, size or location as required or authorized by such law, statute or ordinance;

2. Government signs for control of traffic or other regulatory purpose, street signs, danger signs, railroad crossing signs, city entrance identification signs, signs for designation or direction to any school, hospital, historical site, or to a public service, property or facility, and signs of public service companies;

3. Decorations commonly associated with any national, state, or local holidays or city-sponsored events; provided, that such decorations shall be displayed for a period not exceeding forty-five consecutive days, and no more than sixty days in any one calendar year;

4. Address numbers and nameplates with letters not exceeding six inches high in resi-

dential districts and two feet high in other districts;

5. One sign not to exceed two square feet in area for any main building;

6. A sign posted or erected on private property on behalf of candidates for public office or measures on election ballots as permitted by Section 17.43.160;

7. Signs four square feet or less in area which provide direction or instruction, which are located entirely on the property to which they pertain, and which do not in any way advertise a business; also signs four square feet or less in area identifying restrooms, public telephones, walkways, parking lot entrance and exit signs, and those of a similar nature. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.060 Prohibited signs.**

A. Except as otherwise expressly provided in this section, the following signs are prohibited:

1. Moving signs or structures having a visible moving part or visible mechanical movement of any description, or other apparent visible movement achieved by electrical, electronic or kinetic means, including intermittent electrical pulsation, or by action of normal wind currents. However, an exception is allowed for any such sign not exceeding twenty-five square feet in area, and, consistent with any applicable state standards. The planning commission or city council may approve other exceptions to this prohibition if all of the following findings can be made:

a. The sign will be consistent with the character of the neighborhood;

b. The sign will not result in a distraction to drivers;

c. The sign will not cause reflection or glare onto any residential property;

2. Banners, pennants, searchlights, twirling signs, sandwich boards, balloons or other gas-filled figures, except those which are temporary and for which a permit has been issued pursuant to this section; provided, that no such permit shall be issued for a period longer than thirty days;

3. Roof signs, including any temporary sign located on or extending above the roof of a building, except that an exception to this prohibition may be approved by the planning commission or city council through approval of a conditional use permit pursuant to Chapter 17.42 of this title;

4. Any sign affixed to a vehicle and protruding more than one foot from the surface of the vehicle, or affixed in such a position or manner that the vehicle is rendered inoperable;

5. Any sign which does not identify or relate to any business or other activity being conducted on the premises;

6. Signs constructed in such a way that any light bulb or filament, other than neon tubing or other self-illuminating material of equivalent or less intensity, is visible from the front of the sign or from beyond the property line;

7. Signs displaying obscene, indecent, or immoral matter or untruthful advertising matter;

8. Signs which purport to be, or are, an imitation of, or resemble, official traffic signs or other safety signs and attempt to govern traffic or other public activity in public streets, rights-of-way, or other public places. This does not include traffic or directional signs installed on the premises to control traffic within the premises. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.070 Restrictions on location.**

All signs shall comply with the following location requirements:

##### **A. Public Property.**

1. No person shall paint, mark, attach, post, or otherwise affix any sign to or upon any public property within the city, and any person responsible for doing so is liable for all costs incurred by the city for the removal thereof, which are a debt to the city. "Public property," as used in this section, includes public rights-of-way, including streets, sidewalks, planter strips, curbs, bridges, overpasses, underpasses, street lamp poles, electric light or telephone or telegraph poles and wires appurtenant thereto, street signs, traffic signs, public informational or directional signs and fire hydrants; publicly owned parking lots; publicly owned landscaped areas; public parks and playgrounds and all buildings and facilities appurtenant thereto; and all other public places and property of a similar nature.

2. The provisions of this section shall not apply, however, to the painting of house numbers on street curbs, to the installation of a metal plaque or similar device in a sidewalk or wall to commemorate an event of historical or local importance, or to the installation of sidewalks of terrazzo or similar construction containing a design or an admixture of colors, or both, provided that in each such case all permits required by this chapter are first obtained; nor shall the provisions of this section apply to marquee signs or to projecting signs which comply with all of the provisions of this chapter.

**B. Fire Escapes, Etc.** No sign shall be erected in such a manner that any portion of the sign or its support is attached to or will interfere with the free use of any fire escape, exit or standpipe, or obstruct any required stairway, door, ventilator or window.

C. Marquees, Etc. No sign shall be placed on the top or on any nonvertical surface of any marquee, porch, walkway covering, or similar covering structure adjacent to a building.

D. Traffic Interference. No sign shall be erected in such a manner that it will or reasonably may be expected to interfere with, obstruct, confuse or mislead vehicular traffic, within a triangular area formed by the curb lines and a line connecting them at points thirty-five feet from the intersection of the curb lines, unless the sign is in compliance with the provisions of this section and has a clearance of at least ten feet above curb grade and no part of its means of support has a single or combined horizontal cross-section exceeding eight inches.

E. Vehicle Signs. If a sign exceeding eight square feet is posted or otherwise displayed on a vehicle and is left on either private or public property for longer than seventy-two hours, the sign shall be tantamount to a sign affixed to real property and the provisions of this section shall apply. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.080 Regulations by district.**

Excluding temporary signs and exempt signs, no permit shall be issued for, and it shall be unlawful for any person to erect, construct or maintain any sign of a type not authorized for the district in which it is located, or in number greater than authorized for the district in which it is located, or containing an area greater than authorized for the district in which it is located, according to the following provisions:

##### **A. Residential Districts.**

1. For all residences, permissible signs include an address sign, and one wall sign not to exceed two square feet per main building.

2. Apartments, PUD residential developments, planned mobile home parks, and condominium townhouse developments, permissible signs are those permitted in the site plan or development plan approved pursuant to the provisions of the subdivision ordinance, or as part of a discretionary or other permit approval. In all other cases, one wall sign or one freestanding sign, as permitted by this section, not to exceed fifteen square feet in area, for identification of the premises; and freestanding signs not exceeding five feet in height nor four square feet in area, as required for directing traffic on the property.

B. Nonresidential districts, except as noted, permissible signs include:

1. One projecting sign as permitted by subsection (A)(3) of Section 17.43.110;

2. In addition, wall or marquee signs, as permitted by Section 17.43.090, or freestanding signs as permitted by Section 17.43.120, having a combined total area of not more than one square foot for each lineal foot of building frontage on a public street;

3. Shopping centers, office and other multi-tenant buildings outside of the downtown specific plan area. Shopping centers and office buildings and complexes, shall be considered as one entity, except that each separate business therein having its own entrance may be considered as a separate entity and shall be allowed one wall or marquee sign at the front of the business premises, and, if there is a second entrance to the premises from a public road, walkway, or parking area, one additional sign on the wall having the second entrance. The total area of a front sign shall not exceed 1.25 square foot for each lineal foot of frontage, up to a maximum of two hundred fifty square feet, and shall not occupy more than seventy-five percent of the height or length of a building fascia. The area of any additional

sign for premises having a second entrance shall not exceed one-half of the area of the front sign placed on the same premises;

4. Multi-tenant buildings or centers located in commercial districts outside of the boundaries of the downtown specific plan area, or in industrial districts, or on lots which exceed one acre in size in any district outside the downtown area. Permit applications shall be reviewed and, decided on a case-by-case basis by the architectural review committee, which shall be guided by the general requirements set forth in this section;

5. Within the downtown specific plan area:

a. Tenant spaces of less than six thousand square feet: maximum wall sign area twenty-five square feet for single-occupant buildings, and fifteen square feet per business occupant for multiple-occupant buildings,

b. Tenant spaces of six thousand square feet or greater: maximum wall sign area is one square foot of sign per lineal foot of longest property frontage, and one-half square foot of sign area per lineal foot of side street frontage;

6. Open Space Districts. Permitted signs include one wall or freestanding sign, not exceeding eight square feet in area, to designate the name of the owner or occupant of the premises upon which the sign is situated, or to identify such premises. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.090 General requirements for wall signs.**

A. Except as otherwise provided in this section, every wall sign shall meet the following requirements:

1. Maximum Area. Except as otherwise provided by Section 17.430.080, the maximum wall sign area for each building face is one square foot for each lineal foot of building

frontage, up to but not exceeding two hundred fifty square feet.

2. Thickness or Projection. No part of such sign, including light box or other structural or operating part, shall project more than one foot from the face of the wall on which it is mounted.

3. Height. No structural or operating part of the sign shall extend beyond the top level of the wall upon which it is mounted. Any wall sign which projects over any public or private walkway shall have an overhead clearance of at least ten feet. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.100 Window signs.**

A. Window signs appurtenant to the business or activity being conducted on the premises are permitted, subject to approval by the architectural review committee and the following regulations and limitations:

1. Window signs will be considered as wall signs for the purpose of computing the total area of wall signs on a building.

2. Where individual letter, neon tube, or other borderless copy is mounted so that the window frame is visually the frame of the sign, the area of the sign will be considered the area of the window within which the copy is mounted. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.110 Requirements for projecting signs.**

A. Projecting signs shall be permitted only in commercial and industrial districts, and then only when approved by the architectural review committee. Except as otherwise provided in this section, every projecting sign shall meet the following requirements:

1. **Maximum Area.** The maximum projecting sign area for each building face is twenty-five square feet.

2. **Maximum Height.** No part of any projecting sign shall have a vertical dimension exceeding twelve feet, nor shall it extend above the top level of the parapet wall upon or in front of which it is situated. Any projecting sign which projects over any public or private walkway shall have an overhead clearance of at least ten feet.

3. **Number.** There shall be no more than one projecting sign for each place of business or each building face fronting on a public street.

B. **Multisided projecting signs** constructed back-to-back, with faces on both sides of a single panel, shall count as only one sign, both as to number and area, i.e., only one side need be counted. Every other projecting sign having multiple sides or faces, including a sign constructed in the form of a cylinder or sphere or similar figure, shall be limited in total area to that set forth in this subsection. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.120 Requirements for freestanding signs.**

A. **Freestanding signs** over five feet in height shall be permitted only in commercial and industrial districts and then only when approved by the architectural review committee.

1. **Maximum Area.** The maximum area of all such signs shall be twenty-five square feet for frontage of up to one hundred lineal feet, plus one square foot for each additional lineal foot of building frontage, up to a maximum of two hundred square feet.

2. **Maximum Height.** No such sign shall exceed thirty feet in height in the C-1 district, or sixty feet in height in the CC, HC, C-2, and M, districts, measured from ground level.

3. **Location.** No such sign shall be located closer than five feet to a front, side or rear property line.

4. **Number.** Other than permitted monument signs, only one freestanding sign shall be allowed for each place of business or occupancy. In the case of a shopping center, industrial park, or similar development, the entire development shall for this purpose be considered a single place of business.

5. **Multisided Signs.** Freestanding signs constructed back-to-back, with faces on both sides of a single panel, shall count as only one sign, both as to number and area, i.e., only one side need be counted. Every other freestanding sign having multiple sides of faces, including a sign constructed in the form of a cylinder or sphere or similar figure, shall be limited in total area to that set forth in this subsection.

B. **Monument signs** shall be permitted in accordance with the following provisions:

1. In commercial districts within the downtown specific plan area: maximum area for monument signs is twelve square feet; maximum height is six feet.

2. In industrial districts and commercial outside the downtown specific plan area: maximum area is thirty-two square feet; maximum height is eight feet.

3. **Maximum number of signs** allowed per business or multi-tenant center: one sign per each street frontage with one additional sign for every additional two hundred fifty feet of street frontage.

4. For shopping centers and other multi-tenant centers or buildings, the total area of monuments signs is in addition to the maximum allowable sign area. (Ord. 660 § 3 (Exbt. B) (part), 2008)

**17.43.130 Signs on awnings.**

Where appurtenant to a permitted use, and in circumstances where a retractable or fixed awning has been permitted, signs may be placed on the awning subject to approval by the architectural review committee and to the following regulations and limitations:

A. Signs consisting of one line of letters not exceeding twelve inches in height may be placed on the hanging border of an awning. The area of an awning sign shall be included in the computation of the total area of wall signs on the building to which the awning is attached. Signs placed elsewhere on the awning are not permitted.

B. Signs on awnings shall be painted on or placed flat against the awning material and shall not project more than two inches from the awning surface. Such signs shall not be illuminated. (Ord. 660 § 3 (Exbt. B) (part), 2008)

**17.43.140 Wall graphics.**

Special Permit Required. Notwithstanding any other provision of this section, wall graphics and graphic decorative displays which occupy a major part or all of a building wall or facade and comprise an integral part of the building color scheme or design, including those incorporating signage advertising a business being conducted on the premises, may be allowed by special permit issued by the architectural review committee, as follows:

A. Application for such permit shall contain such information as the architectural review committee requires and shall be accompanied by:

1. A detailed sketch, drawn to scale, showing the colors to be used and showing the facades of other buildings within a lateral distance of one hundred fifty feet of the site or to

the nearest corner, if such corner is less than one hundred fifty feet distant;

2. The written consent of the owners and occupants, or their authorized representatives, of not less than fifty percent of the property situated on the same street and within three hundred feet of the sign, the percentage to be computed on the basis of frontage footage rather than area; and

3. The prescribed permit fee.

B. Upon receipt of such application the architectural review committee shall hold at least one public hearing upon the same and shall give at least ten working days' prior written notice thereof by mail to each owner and to each occupant of real property situated within three hundred feet of the site.

C. If at the conclusion of the public hearing the architectural review committee finds the proposed graphic display to be consistent with the general and specific plans adopted for the district in which the site is located, and consistent with the purposes and objectives of this title, it may issue a permit upon such conditions as it may deem proper, including conditions requiring periodic renewal. (Ord. 660 § 3 (Exbt. B) (part), 2008)

**17.43.150 Special purpose signs.**

Signs for the special purposes set forth in this subsection are permitted, subject to permit requirements and the following specific requirements:

A. For-Sale or For-Lease Signs. In all districts, signs may be erected on real estate advertising such real estate for sale or lease, provided they are in compliance with the provisions of this section. In residential districts such signs shall not exceed six square feet in area. In all other districts, the area of such signs shall not exceed seventy-five square feet. In lieu of a temporary sign permit for

each sign, an annual permit for such signs may be issued to any person; such signs shall not be limited in number, but the fee charged for the permit shall be based on the maximum number of signs specified in the permit. Notwithstanding the provisions of this subsection, on any residential property, one “for sale by property owner sign” not exceeding two square feet in area is exempt from the permit requirements of this subsection. A temporary sign permit is required for any “for sale by property owner” sign between two and six square feet in area.

B. Directory Signs. In all districts where group occupancies in office or commercial buildings are permitted, directory signs may be erected displaying the names of the occupants of a building. Such signs shall be situated at least two feet inside the front property line, shall not exceed eight feet in height, and shall have a total area not exceeding seventy-five square feet.

C. Construction Project Signs. Signs may be erected in conjunction with construction projects for the purpose of publicizing the future occupants of the building or the architects, engineers, contractors and lenders participating in the project. In residential districts no such sign shall exceed twelve square feet in area, nor shall any such freestanding sign exceed five feet in height. In other districts the maximum sign area shall not exceed seventy-five square feet. All such signs shall be removed before a final release and certificate of occupancy is issued by the building official.

D. Directional Signs Greater Than Four Square Feet. Directional signs may be erected to facilitate or control the efficient and safe movement of pedestrians or vehicles on private property. Such signs shall not be used for advertising purposes and shall not display the name or insignia of any person, firm, product

or service. Each such sign shall be located on the property to which it pertains, shall have an area of not more than eight square feet, shall not exceed four feet in height, and shall be located at least five feet from the nearest property line. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.160 Requirements for election signs.**

The purpose of this section is to achieve a fair and reasonable accommodation between the public’s interest in full and vigorous debate of election issues and candidates, and the community’s interest in public order, cleanliness and community aesthetics.

A. Size. Election signs shall be eight square feet or less. No more than one election sign shall be attached per sign post or stake in order to avoid circumstances in which multiple signs are affixed to a single sign or post creating an overall display in excess of eight square feet for any single candidate or combination of candidates. Similarly, it shall be prohibited to assemble several eight square foot or less signs, either edge-to-edge or where separated by minimal space, to create a display for a single candidate or combination of candidates in excess of eight square feet.

B. Time Limit. Election signs may be displayed in connection with an election for up to seven days following the election to which they relate. After said election, signs shall be removed except that, if an election sign pertains not only to a primary election but also to a succeeding general election, it may be displayed until seven days after the date of the general election.

C. Location.

1. No person shall erect or display or cause or authorize any person to erect or display any election sign on public property. Public property shall include but not be lim-

ited to: public rights-of-way, public buildings, easements, public telephones, and walkways. Election signs on public property will be removed without notice.

2. No person shall erect or display, or cause or authorize any person to erect or display, any election sign on any property not owned or controlled by such person, unless authorized to do so by the owner or other person in control of such property.

D. Election signs shall not be regulated by Section 17.43.040 (Temporary Signs) of this code, and the city shall not grant additional sign permits or allow additional election signs under the provisions of Section 17.43.040 (Temporary Signs) of this code. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.170 Classification of signs.**

Every sign erected or proposed to be erected shall be classified by the community development director in accordance with the provisions of this section. Any sign which does not clearly fall within one of the classifications provided in this section shall be placed in the classification which the sign, in view of its design, location and purpose, most nearly approximates, and the decision of the community development director in this regard is conclusive. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.180 Construction and maintenance.**

All signs are subject to the following construction and maintenance requirements:

A. **Safety Requirements.** All signs shall be constructed, erected and maintained in compliance with the appropriate detailed provisions relative to construction, structural integrity and safety contained in the Uniform Building Code, the Uniform Electrical Code,

the Uniform Sign Code, and other applicable codes adopted by reference in Chapter 15.08 of this code, as well as in compliance with construction standards set forth in this chapter.

B. **Maintenance Requirements.** Every sign shall be kept in good and presentable condition at all times. Defective or deteriorated parts shall be replaced and painting, repainting, cleaning and other work of maintenance and repair shall be performed as needed to preserve the appearance and material condition of the sign.

C. **Unsafe Signs.** No person shall maintain or permit to be maintained on any premises owned or controlled by him or her any sign which is in a sagging, leaning, fallen, decayed, deteriorated, dilapidated or otherwise unsafe condition. The community development director may revoke the permit for any sign which is in violation of any of the requirements of this section and may proceed to abate the same if the owner or other person in control of the premises fails to correct the violation after being given notice to do so. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.190 Abandoned signs.**

No person shall maintain, or permit to be maintained, on any premises owned or controlled by him or her any sign which has been abandoned. Any sign which is located on property which becomes vacant and remains unoccupied for a period of three months or more, and any sign which was erected for an occupant or business unrelated to the present use of the premises, and any sign which pertains to a time, event or purpose which no longer obtains, shall be presumed abandoned; provided, that such presumption shall not apply to premises in regular use on a seasonal basis. The community development director may revoke the permit for any abandoned sign

and may abate the same if the owner or other person in control of the premises fails to do so after being given notice to abate. (Ord. 660 § 3 (Exbt. B) (part), 2008)

**17.43.200 Nonconforming signs.**

This section applies to every sign in existence on the effective date of the ordinance codified in this chapter which violates or does not conform to the provisions of this section.

A. Amortization. Within the following time periods, all nonconforming signs within the city shall be altered, removed, or otherwise made to comply with the provisions of this section:

1. Signs painted on buildings, walls or fences, two years;

2. All other signs, five years; provided, that the following time periods apply to signs legally erected pursuant to a valid sign permit issued within two years immediately preceding the effective date of the ordinance codified in this title:

a. Signs painted on buildings, walls or fences, three years from permit date;

b. All other signs, seven years from permit date.

3. If a sign becomes nonconforming subsequent to the effective date of the ordinance codified in this chapter, either by reason of the annexation to the city of the territory within which the sign is located or by the amendment of this section to render such sign nonconforming, the period within which such sign must be altered, removed, or otherwise made to comply with the provisions of this section shall commence to run upon the effective date of such annexation, or of such amendment, or the date upon which the sign otherwise becomes nonconforming.

B. Alteration or Removal. Nonconforming signs shall either be made to conform with the

provisions of this section or abated within the applicable period of time hereinabove in this section set forth. It shall thereafter be unlawful for the owner or person having control of the property upon which a nonconforming sign is located to maintain the same, or to allow the same to be maintained, on the property. The Community Development Director may revoke the permit for any such sign and may abate the same if the owner or other person in control of the premises, after being given notice to bring the sign into conformity or to abate the sign, does not do so. (Ord. 660 § 3 (Exbt. B) (part), 2008)

**17.43.210 Abatement procedures.**

When under any provision of this section a sign is required to be abated, the following procedures shall be followed:

A. Manner of Abatement. Signs painted on buildings, walls or fences shall be abated by removal of the paint constituting the sign or by permanently painting over it in such a way that the sign thereafter is or becomes invisible. Other signs shall be abated by removal of the sign, including the dependent structures and supports; or, pursuant to a sign permit duly issued, by modification, alteration or replacement thereof in conformity with the provisions of this section.

B. Notice to Owner. Except in cases of emergency, as provided in this subsection, before taking any abatement action, the community development director shall cause to be mailed to the owner of the property upon which the sign is located a notice informing the owner of the nature of the violation and ordering that the sign be abated within ten days after the date of mailing of the notice. The notice shall be addressed to the owner at his or her last-known address or at the owner's address as shown upon the last equal-

ized assessment roll for the city. Such notification to the owner shall be deemed to be notification to the owner of the sign. The mailing of the notice shall be done primarily as a convenience to the owner, and the failure of the owner to receive the notice in no way impairs the effectiveness of the provisions of this section or the validity of any proceedings taken for the abatement of the sign. In case of emergency, when it is determined by the community development director that a sign is unsafe and an imminent danger to the public safety, and contact cannot be made with the property owner or the owner of the sign, the foregoing notice requirement does not apply and the community development director may proceed immediately with the abatement of the sign.

C. Abatement by City. If the owner or other person having control of the property upon which a sign subject to abatement is located fails to abate the same within the period of time specified in the notice to the owner, the director may cause the sign to be abated as provided in this subsection, at the owner's expense. Any sign removed pursuant to the provisions of this section shall become the property of the city and may be disposed of in any manner deemed appropriate by the city. The cost of removal, and all incidental expenses incurred by the city in connection with such removal, constitute a debt owed to the city by the owner of the sign and the owner of the property and may be recovered in an appropriate court action by the city, together with its costs of suit and attorneys' fees in the action. (Ord. 660 § 3 (Exbt. B) (part), 2008)

#### **17.43.220 Appeals.**

Appeals from decisions made or actions taken under the provisions of this section shall be made as follows:

A. Appeals to the Architectural Review Committee. Any affected person may appeal the action or decision of the community development director pursuant to the provisions of this section, to the architectural review committee by filing written notice of appeal with the secretary of the planning commission within fourteen days of the date of such action or decision. The secretary thereupon shall set the matter for hearing by the architectural review committee at the next available meeting, and shall cause written notice of hearing to be mailed to the appellant at the address stated in the notice of appeal no less than five days prior to the date of hearing.

B. Appeals to City Council. Any affected person may appeal the action or decision of the architectural review committee or the planning commission pursuant to the provisions of this section, may appeal to the city council by filing written notice of appeal with the city clerk within fourteen days of the date of such action or decision. The city clerk thereupon shall set the matter for hearing by the city council at the next available meeting, and shall cause written notice of hearing to be mailed to the appellant at the address stated in the notice of appeal, and to the applicant (if the applicant is not the appellant) at the address stated in the application, not less than five days prior to the date of hearing. The decision of the city council on such appeal shall be final and conclusive. (Ord. 660 § 3 (Exbt. B) (part), 2008)

## Chapter 17.44

### SITE PLAN REVIEW

#### Sections:

- 17.44.005    **Applicability.**
- 17.44.010    **Site plan.**
- 17.44.020    **Street dedications and  
improvements required.**

#### 17.44.005    **Applicability.**

When a site plan review is required by this title, the procedures set out in this chapter apply. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.44.010    **Site plan.**

The purpose of the site plan is to enable the director to make a finding that the proposed development is in conformity with the intent and provisions of this division and to guide the building official in the issuance of permits.

A. Contents. The applicant shall submit twelve prints of the site plan to the director. The site plan shall be drawn to scale and shall indicate clearly and with full dimensions the following information:

1. Lot dimensions;
2. All existing and proposed buildings and structures: location, elevations, color scheme, size, height, and proposed use;
3. Yards and space between buildings;
4. Walls and fences: location, height and materials;
5. Off-street parking: location, number of spaces and dimensions of parking area, and internal circulation patterns;

6. Access: pedestrian and vehicular service, points of ingress and egress and internal circulation;

7. Signs: location, size and height;

8. Loading: location, dimensions, number of spaces and internal circulation;

9. Lighting: location, general nature and holding devices;

10. Street dedications and improvements, as provided in Section 17.44.020;

11. The location and type of landscaping; and

12. Such other data as may be required to permit the director to make the required findings.

B. Approval or Disapproval. Within twenty days after the director determines that the application is completed the director shall approve, with conditions deemed necessary to protect the public health, safety and welfare, or disapprove the site plan. In approving the plan, the director shall find that:

1. All provisions of this title are complied with;

2. The following are so arranged that traffic congestion is avoided and pedestrian and vehicular safety and welfare are protected, and there will be no adverse effect on surrounding property:

- a. Facilities and improvements,
- b. Vehicular ingress, egress and internal circulation,
- c. Setbacks,
- d. Height of buildings,
- e. Location of services,
- f. Fences/walls,
- g. Landscaping;

3. Proposed lighting is so arranged as to reflect the light away from adjoining properties;

4. Proposed signs will not by size, location, color or lighting interfere with traffic or limit visibility;

5. Proposed development has adequate fire and police protection;

6. Proposed development can be adequately served by city sewer and water;

7. Drainage from the property can be properly handled;

8. Proposed development is consistent with general and specific plans and the redevelopment plan. The director's decision shall be final unless appealed to the planning commission.

D. Appeal to the City Council. The applicant or any aggrieved person may appeal in writing, setting forth his reason for the appeal to the city council. The appeal shall be filed with the city clerk within five days after the planning commission's decision. The appeal shall be placed on the agenda of the council's next regular meeting after the appeal is filed. The council shall review the site plan and shall approve, approve with conditions, or disapprove based on the findings listed in subsection B of this section. The decision of the council is final.

E. Distribution. The approved site plan, with any conditions shown thereon or attached thereto, shall be dated and signed by the director. One copy of the site plan and conditions shall be mailed to the applicant.

F. Revisions. Revisions by the applicant to an approved site plan shall be made pursuant to the procedure set forth in this section.

G. Expiration of Site Plan Approval.

1. An approved site plan becomes void in the event there has not been substantial development of the site, or a portion of the site for an approved phased development,

within twelve months after the approval of the site plan. Substantial development of one or more increments of a phased development shall extend the expiration date of the site plan for the remaining phases, except that the final phase shall be substantially developed within five years.

2. A project shall be considered indivisible unless the director approves a request by the applicant that the project be developed in phases or the director requires phased development. Such determination shall be based on the finding that upon construction of the required on-site and off-site improvements serving each phase, it can function independently of later phases.

3. An occupancy permit for a building, structure or use as shown upon an approved site plan shall not be issued until all proposed buildings, structures and other stated improvements in an indivisible project or phase of a divisible project are completed, or the director authorizes its issuance upon making a finding that all on-site and off-site conditions relating to the building, structure or use have been or will be met. (Ord. 524 § 2 (part), 1993; Ord. 445 § 2 (Exbt. A) (part), 1986)

#### 17.44.020 Street dedications and improvements required.

Because of changes that may occur in the local neighborhood due to increases in vehicular traffic generated by facilities requiring a site plan review, and upon the principle that such development should be required to provide street dedications and improvements as near as practicable in proportion to the increased vehicular traffic, but should not be required to provide such street facilities for nonrelated traffic, the following dedications and improvements

may be deemed necessary by the director and may be required by him as a condition to the approval of any site plan:

A. When the Development Borders or is Traversed by an Existing Street.

1. Minor streets, local streets and cul-de-sac: Dedicate all necessary right-of-way to widen street to its ultimate width as shown on any master or precise plan of streets and highway; install curbs, gutters, drainage, sidewalks, street trees, street signs, street lights and required utilities; and grade and improve from curb to existing pavement.

2. Major and collector streets: Dedicate all necessary rights-of-way to widen the street to its ultimate width as established to any precise plan, precise plan of streets and highways, or where the ultimate right-of-way lines are otherwise determinable and the grades have been established or can be determined; install curbs, gutters, drainage facilities, sidewalks, street trees, street signs, required

utilities; and grade and improve the shoulder and on traffic lane abutting the development. In no case shall a person be required to dedicate or improve the right-of-way for a distance in excess of thirty feet as measured from the ultimate right-of-way line.

3. Major thoroughfares (expressways, freeways, the state highways): Dedicate all necessary rights-of-way to widen the thoroughfare to its ultimate width as established by any precise plan, specific plan of streets and highways, or where the ultimate rights-of-way lines are otherwise determinable and the grades have been established or can be determined, except in cases where access does not exist. Set-back all facilities the required distance from the ultimate property line as shown on any master or specific plan; install curbs, gutters, drainage, sidewalks, street trees, street signs, street lights, and required utilities. In no case shall the required improvements or right-of-way dedication apply for distances in excess of thirty feet as measured from the ultimate right-of-way line.

B. Frontage and Other New Roads. All frontage roads or new roads of any class made necessary by the development shall be dedicated and fully graded and improved with curbs, gutters, drainage, sidewalks, street trees, street signs, street lights, required utilities, grading and paving: provided, that where the street involved is indicated as an eventual major street or major thoroughfare upon any master or precise plan of streets and highways, the amounts of grading and paving shall not exceed required for such existing streets under

subdivision 1 of subsection A of this section. Where a frontage road is provided and improved, the improvements in subdivisions 2 and 3 of subsection A of this section will not be required.

C. Standards. All improvements shall be to city standards.

D. Building Permit. Before a building permit shall be issued for any such building or structure, the director shall determine that:

1. The proposed building is in conformity with the site plan and approved conditions;

2. All required on-site (outside the city right-of-way) and off-site (within the city right-of-way) improvements shall have either been completed, or if not completed, the permittee has entered into an agreement with the city to complete the work within six months from the date of the issuance of the permit. The director may extend the completion date for one additional six-month period upon written request of the permittee upon a showing of good cause therefor. Such an agreement shall be secured either by cash deposited with the city, a cash deposit in an irrevocable escrow approved by the director, or other financial security approved by the director as the equivalent thereof. Such security shall be in the amount of one hundred percent of the estimated cost of completion to be determined by the director. In the event such work is not complete within the period provided or any extension thereof, the city shall be authorized to take all necessary action to enforce the agreement including the use of the

security to cause the completion of all required improvements. Moneys deposited with the city or an escrow may be partially released to the depositor by the director during the progress of the work so long as the same ratio of security is maintained on deposit to secure all uncompleted work; and

3. All of the required dedications have been given. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**Chapter 17.45**

**HISTORIC RESOURCES**

**Sections:**

- 17.45.010 Purpose.**
- 17.45.020 Terms and definitions.**
- 17.45.030 Historic resources commission.**
- 17.45.040 Duties of historic resources commission.**
- 17.45.050 Designation request.**
- 17.45.060 Findings and determination.**
- 17.45.070 Notification by city to property owner or owners of pending designation of historic resource.**
- 17.45.080 Public hearing procedure to designate historic resource.**
- 17.45.090 Notice to property owner(s) following historic resource designation.**
- 17.45.100 Entry in city registry of historic resources.**
- 17.45.110 Alteration or relocation of historic resource.**
- 17.45.120 Duty to keep in good repair.**
- 17.45.130 Historic preservation incentives.**
- 17.45.140 Procedures for demolition of historic resource.**
- 17.45.150 Demolition of building or structure fifty years of age or older.**
- 17.45.160 Appeal process.**
- 17.45.170 Revocation of historic resource designation.**
- 17.45.180 Unsafe or dangerous conditions.**

**17.45.190 Time extensions.**

**17.45.200 Enforcement and penalties.**

**17.45.010 Purpose.**

The city finds that it is of value and importance to the general welfare of the community to recognize and protect the historic and cultural resources of the city in order to safeguard the heritage of the city. It is the purpose of this chapter to:

A. Identify, protect, enhance and perpetuate structures, buildings, landmarks, sites, places and objects within the city, which are of historic, archaeological, architectural and/or engineering significance to the community;

B. Enhance the city's cultural and historical heritage and aesthetic character, thereby making the city a more attractive and desirable place in which to live and work;

C. Foster civic and neighborhood pride in the city's historical accomplishments;

D. Protect and enhance the city's attraction to visitors and tourists as well as to residents; and

E. Establish special standards in order to help ensure the preservation, maintenance or rehabilitation of significant historic structures. (Ord. 662, § 2, 2009)

**17.45.020 Terms and definitions.**

As used in this chapter, the following definitions shall apply:

"Adobe" shall mean an unburnt, sun-dried, clay brick; or a building made of adobe bricks.

"Alteration" shall mean any exterior change or modification, through public or private action, of any designated historic resource which involves exterior changes to or modification of a structure, its surface texture, or its architectural details; relocation of structures onto, from or within a

designated property or site; or other changes to the property or site affecting the significant historical or architectural features of a designated historic resource. For purposes of this chapter, "alteration" includes, but is not limited to, the kind, color and texture of building materials, architectural details, and the style and type of all windows, doors, lights, signs and other affixed fixtures.

"California Environmental Quality Act (CEQA)" shall mean the California Public Resources Code Section 21000 et seq. and its related guidelines as it may be amended from time to time.

"Demolition" means any act(s) that destroy in whole or in part, a building, structure or improvement.

"Good repair" shall mean to preserve against decay and deterioration to reduce the incidence of demolition by neglect.

"Historic district" shall mean any geographically-defined area or neighborhood which has a special character, historical interest, aesthetic value, or archaeological significance or which, collectively, represents one or more architectural periods or styles typical of the history of the city, and which constitutes a distinct section of the city that has been designated a historic district pursuant to this chapter.

"Historic resource" shall mean a building, structure, object, historic district (as defined herein), site, place, or cultural feature or other improvement designated as historically significant pursuant to the provisions of this chapter.

"Historical resource assessment report" shall mean a report prepared by a historic resource professional. The report shall include, but not be limited to, background information establishing the historic significance and value of a potential historic or cultural resource.

"Historic resource officer" shall mean an employee of the city responsible for pro-

moting the preservation of historic resources and historic resource objectives of this chapter and serving as the liaison between the historic resources commission and public, city staff, and other historic preservation agencies. The community development director, or his or her designee, shall serve as the historic resource officer.

"Historic resource professional" shall mean any individual meeting the secretary of the interior's professional qualification standards, 36 CFR 61.4. For the purposes of this chapter, a historic preservation professional may include licensed architects, architectural historians, historians, archaeologists or historical engineers that have experience in working with history and cultural resources.

"Improvement" shall mean any building, structure, place, fence, gate, landscaping including trees, wall, work of art or other object constituting a physical feature of real property.

"Property owner" shall mean the person appearing as the owner of such improvement, natural feature, or site on the latest equalized assessment roll of the county of Monterey.

"Relocation" shall mean the removal of a historic resource from its original site to a new site.

"Soledad historic resources registry" shall mean the city-maintained official list of historic resources designated by the city for public recognition and benefits.

"Structure" as used in this chapter shall mean a building or any other man-made object affixed on or in the ground, or attached to something having location on the ground.

"Substantial deterioration" shall mean the physical conditions of a structure or improvement which threaten the structural or historical integrity of the resource. (Ord. 662, § 2, 2009)

**17.45.030 Historic resources commission.**

A. The city planning commission shall serve as the historic resources commission for the purpose of implementing the provisions of this chapter.

B. Meetings of the historic resources commission shall convene as needed on the same date of any regularly scheduled planning commission meeting. (Ord. 662, § 2, 2009)

**17.45.040 Duties of historic resources commission.**

The historic resources commission shall have the following powers and duties under this chapter:

A. Hear and render decisions on applications to designate historic resources within the city;

B. Hear and render decisions on applications to alter historic resources;

C. Hear and render decisions on applications to demolish potentially significant historic structures or buildings pursuant to Section 17.45.150 of this chapter;

D. Hear and render recommendations to the city council on applications to demolish a historic resource;

E. Serve as an advisory body to the city council on methods and incentives to preserve Historic Resources within the city;

F. Maintain a local register of historic resources within the city;

G. Recommend architectural design guidelines to the city council for the preservation of historic character, to be used in the review of applications for alteration of a designated historic resource;

H. Investigate and report to the city council on the use of various federal, state, local, or private funding sources, incentives and other mechanisms available to promote historic preservation in the city;

I. Review and comment on the decisions and documents prepared under the California Environmental Quality Act (CEQA) and other public agencies when such decisions or documents may affect any type of designated historical resource or potentially significant historical resource in the city; and

J. Perform any other historic-related functions that may be designated by resolution or minute motion of the city council. (Ord. 662, § 2, 2009)

**17.45.050 Designation request.**

Historic resources shall be designated and approved by the historic resources commission in the following manner:

A. Request to Designate Historic Resource. The historic resources commission, on its own initiative, or by the directive of the city council, or by written request by the owner of the structure or improvement, or by any resident of the city, or by any person that owns property in the city, may initiate a request for a historic resource designation. An application for a proposed historic designation shall be filed with the community development department.

B. Application and Supporting Material Required. The proposed designation shall be submitted on an application as prescribed by the community development director and shall be accompanied by adequate supporting historical and architectural information in order that the historic resources commission can render an informed determination concerning designation of a structure, improvement, district, site or place as a historic resource.

C. Majority Consensus of Property Owners Required. An application for a historic district as a historic resource designation shall also include a written statement of support, with original signatures, demonstrating a majority consensus of fifty-

one percent or more of affected property owners. (Ord. 662, § 2, 2009)

**17.45.060 Findings and determination.**

Designation of a historic resource shall be based on supporting evidence and the following findings by the historic resources commission and shall officially be made part of the public record.

A. Eligibility Criteria for Historic Resource Determination. In making a determination whether a structure, property feature, residential or commercial area or neighborhood shall be designated a historic resource, the historic resources commission shall find that the building, structure or improvement, or any combination thereof in a site, place, or district, is at least fifty years old and meets one or more of the following criteria:

1. It possesses integrity of location, design, setting, materials, workmanship and association;

2. It exemplifies or reflects special elements of the city's cultural, social, economic, civic, aesthetic, archaeological, architectural or engineering history;

3. It is identified with persons or events significant in local, regional, state, or national history;

4. It embodies distinctive characteristics of an architectural style, type, period, or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship;

5. It is representative of the work of a notable builder, designer, or architect;

6. It contributes to the significance of an historic area by being a geographically definable area, possessing a concentration of not less than fifty percent of historic or scenic properties or thematically-related grouping of properties which contribute to each other and are unified aesthetically by plan or physical development; or

7. It is one of the few remaining examples in the region, state or nation possessing distinguishing characteristics of an architectural or historic type or specimen.

B. Finding of Reasonable Use. The designation of a structure, place or improvement as a historic resource will not deprive the owner or owners of all reasonable use of his or her property.

C. Disapproval. No proposal for designation once considered and disapproved by the historic resources commission shall be reconsidered except upon the affirmative vote of not less than a super-majority (quorum plus one) of commission members. Any decision to reconsider shall be treated as a new proposal for designation. (Ord. 662, § 2, 2009)

**17.45.070 Notification by city to property owner or owners of pending designation of historic resource.**

A. This section shall apply when either the city council or historic resources commission submits an application that proposes the designation of a historic resource owned by either a private individual or individuals or any entity other than the city.

B. The community development director shall notify the property owner or owners of the pending historic resource designation. Notification shall be conducted in the following manner:

1. Written notification to the property owner shall be made no later ten calendar days after an application has been deemed complete by the community development director; and

2. Written notification to the property owner shall be delivered via certified U.S. Postal Service with a return receipt request. (Ord. 662, § 2, 2009)

**17.45.080 Public hearing procedure to designate historic resource.**

The historic resources commission shall schedule a public hearing on all proposed historic resource designations as specified under Section 17.45.050 of this chapter.

A. A public hearing shall be held within ninety calendar days after the community development director deems an application complete. Public hearing noticing shall be provided in the following manner:

1. At least thirty calendar days prior to the scheduled public hearing before the historic resources commission, written notice of the hearing shall be sent to the owner of the structure or property feature proposed as a historic resource or the owners of buildings, structures and properties within a proposed historic resource. Written notice shall be provided via certified U.S. Postal Service with a request return receipt;

2. At least ten calendar days prior to the historic resources commission's scheduled public hearing, a notice of the hearing shall be published in a local newspaper;

3. At least ten calendar days prior to the scheduled public hearing, notices of the public hearing shall be posted in at least three highly visible locations near the structure, property feature, or residential or commercial area proposed as a historic resource; and

4. At least ten calendar days prior to the scheduled public hearing, notice of date, place time and purpose of said hearing shall be provided by first class mail to property owners within three hundred feet of the property proposed for designation as a historic resource and to any person who has filed a written request for notice with the city clerk or designee.

B. Failure of property owners to receive notice of such public hearing shall in no way affect the validity of any action taken. (Ord. 662, § 2, 2009)

**17.45.090 Notice to property owner(s) following historic resource designation.**

The historic resources commission shall notify the property owner or property owners following approval by the historic resources commission of an application to designate a structure, property landmark or neighborhood or commercial area as a historic resource. Notification shall be conducted in the following manner:

A. The community development director or designee shall notify the property owner(s) in writing that the structure, property landmark, neighborhood or commercial area is designated a historic resource;

B. The notification shall clearly state the type of historic resource, address, parcel number and photographs of the designation approved and the property's owner right to appeal as specified under Section 17.45.160 of this chapter;

C. The community development director or designee shall mail no later than ten calendar days from the historic resources commission approval written notice via certified U.S. Postal Service and request a return receipt; and

D. Failure of any property owner to receive notice shall in no way affect the validity of any action taken. (Ord. 662, § 2, 2009)

**17.45.100 Entry in city registry of historic resources.**

A. Adopted resolutions designating historic resources shall collectively be identified and included in the city registry of historic resources.

B. The community development director shall be the official custodian of the city registry of historic resources and maintain a copy for public display and review.

C. Absent an appeal of a designated historic resource pursuant to Section

17.45.160, "Appeal process," the designated historic resource shall be entered into the city registry of historic resources.

D. Any amendment, additions, or deletions to the city registry of historic resources shall be made by the community development director following actions pursuant to this chapter to designate, relocate or demolish a historic resource. (Ord. 662, § 2, 2009)

**17.45.110 Alteration or relocation of historic resource.**

A. Approval Required. Any proposed alteration or relocation of a historic resource or any building, structure or improvement within a historic district designated as a historic resource, shall be subject to review and approval by the historic resources commission except as otherwise provided by this section. All alterations shall be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving Rehabilitating, Restoring, and Reconstructing Historic Buildings, or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation Historic Buildings.

B. Findings Required. A determination by the historic resources commission to either allow the alteration or relocation of a historic resource shall be based upon one or more of the following findings:

1. The exterior alterations are being made primarily for the purpose of restoring the historic resource to its original appearance or in order to substantially aid in the preservation or enhancement of the historic resource consistent with the purposes as set forth in this chapter;

2. The exterior alteration is consistent with the architectural character of the his-

toric resource and with the historical, architectural, or aesthetic value of the structure and its site;

3. With respect to any structure or property located within a historic district, the proposed work is consistent with the historical, architectural and aesthetic character of the district and conforms with any standards for said district as may be adopted by the commission;

4. The applicant has demonstrated that the proposed alteration is necessary to correct an unsafe or dangerous condition on the property pursuant to Section 17.45.180 of this chapter;

5. The applicant has adequately demonstrated that denial of the application will result in immediate and substantial economic hardship that denies the applicant the ability to make reasonable beneficial use of the property, or the ability to obtain a reasonable economic return from the property; or

6. With respect to a proposed relocation, the relocation of the historic resource will substantially aid its long-term preservation or enhancement.

C. Administrative Approvals. The community development director or designee may review and approve minor exterior alterations. Minor exterior alterations are those alterations which will obviously not affect either the exterior architectural characteristics or the historical integrity of the historic structure, its site or surroundings. The director shall determine, based on the merits of the proposal, whether an alteration or relocation shall be administratively approved or scheduled for consideration and action by the historic resources commission. (Ord. 662, § 2, 2009)

**17.45.120 Duty to keep in good repair.**

A. Prevention of Deterioration and Decay of Historical Resource. The owner or

other person or entity acting as agent of the owner of a historic resource, or of an improvement, building, or structure in an historic district designated a historic resource, shall keep in good repair all of the exterior portions or elements of such improvement, building or structure, and all interior portions, the maintenance or repair of which is necessary to prevent deterioration and decay of any exterior architectural feature. Such building elements include but are not limited to: features so attached that they may fall and injure members of the public or property; deteriorated or inadequate foundation; deteriorated or inadequate flooring; members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration; members of ceilings, roofs, ceiling or roof supports, or other horizontal members that sag, split, or buckle due to defective materials or deterioration; fireplaces or chimneys that list, bulge, or settle due to defective material or deterioration; deteriorated, crumbling or loose exterior plaster; deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows and doors; defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering; inadequate electrical or plumbing systems; any fault, defect, or deterioration in the building that renders it structurally unsafe or not properly watertight, and/or damage from vandalism.

B. Enforcement by Building Official. It shall be the duty of the city building official to enforce this section to prevent the "substantial deterioration" of any exterior portion of such a historic structure, building or improvement and to also prevent the substantial deterioration of any interior portions thereof which are essential to the in-

tegrity and preservation of any exterior portion. (Ord. 662, § 2, 2009)

#### **17.45.130 Historic preservation incentives.**

A. State Historic Building Code. The State Historic Building Code (Part 8, Title 24, C.C.R.) may be applied to all buildings and structures designated as historic resources at the discretion of the building official.

B. Other Incentives. The historic resources commission shall investigate developing an incentive program to encourage historic preservation, investment in historic properties, and to aid property owners with potential financial burdens associated therewith. Upon recommendation by the historic resources commission and approval by the city council, program elements shall be made available to property owners who preserve designated historic resources and, in the case of direct city expenditures, the program shall ensure that the cost of incentives is a reasonable use of public funds. Incentives such as those found in the Federal Historic Preservation Tax Certification, Conservation Easements, the California Mills Act and others as deemed appropriate may be considered for adoption or application by the city. (Ord. 662, § 2, 2009)

#### **17.45.140 Procedures for demolition of historic resource.**

A. Any person proposing to demolish a building or structure designated as a historic resource or a building or structure located in an historic district designated as a historic resource, shall file an application for a demolition permit in accordance with the provisions of Chapter 15.08 of this code along with a photograph of the structure and other information as may be required by the community development director or designee.

B. Except where a historic structure is considered unsafe and dangerous pursuant to Section 17.45.170 of this chapter, no demolition permit shall be issued without the concurrent or tandem issuance of a building permit for a replacement structure or structures for the property in question.

C. If not already completed and on file with the city, the preparation of an historical resource assessment report shall be required prior to scheduling a public hearing on a demolition application.

D. Following receipt of a completed application to demolish a historic resource or any building, structure or improvement within a historic district designated as a historic resource, the application shall be forwarded to the historic resources commission for consideration and a recommendation to the city council. The commission shall conduct a public hearing in accordance with the provisions of Section 17.45.080 of this chapter and recommend city council approval or denial of said application based upon public testimony, historical resource evidence and other pertinent information in the public record.

E. Recommended approval or approval of a demolition permit for a historic resource or a structure located therein shall be based upon the following findings:

1. That the historic resource no longer has significant aesthetic, cultural, architectural, or engineering interest or value of an historical nature and, therefore, demolition is consistent with the purposes of this chapter;

2. That the applicant has demonstrated that the proposed demolition is necessary to correct an unsafe or dangerous condition on the property pursuant to Section 17.45.180 of this chapter; or

3. That the applicant has demonstrated that denial of the demolition permit application will result in immediate and substan-

tial economic hardship to the owner of said structure, building and/or property, or that there are no reasonable alternatives to the demolition as of the time of the hearing. In determining whether or not extreme hardship exists, the commission shall consider evidence which demonstrates the following:

- a. Denial of the demolition application will diminish the value of the subject property so as to leave little or no value for its intended use;

- b. Sale or rental of the property at a reasonable rate of return is not feasible or is impractical; and/or

- c. Utilization of the property for lawful purposes is prohibited or impractical.

F. The resolution adopted by the historic resources commission memorializing the commission's action concerning the demolition permit shall be forwarded to the city council.

G. The city council shall hold a public hearing in accordance with the provisions of Section 17.45.080 of this chapter at a regularly scheduled meeting to consider the demolition of a historic resource.

H. Except as otherwise provided herein, the city council either shall either approve or deny the demolition permit subject to the findings of this section.

I. The city council may also continue the public hearing for a demolition permit for up to one hundred twenty calendar days to consider the feasibility of relocation of the historical structure. During this waiting period, the applicant shall advertise the proposed demolition in a paper of general circulation in the county of Monterey at least two times during the first thirty calendar days following the public hearing before the city council. Such advertisement shall include the structure address and information concerning relocation arrangements. Evidence of this publication must be submitted

to the community development director at least ten calendar days prior to the continued public hearing.

J. The city council's determination shall be final. (Ord. 662, § 2, 2009)

**17.45.150 Demolition of building or structure fifty years of age or older.**

A. Applications for the demolition of a potentially significant historic building or structure that is fifty years of age or older shall require completion of a historical resource assessment report at the owner or applicant's expense.

B. If the historical resource assessment report concludes that the building or structure does not qualify as a historical resource under this chapter, the demolition permit application may be approved by the building official.

C. If the historical assessment report concludes that the building or structure does qualify as a historical resource under the provisions of this chapter, review and approval of the application by the historical resources commission is required pursuant to Section 17.38.130 of this title.

D. Following receipt of a complete application to demolish such a structure or building, a public hearing before the historical resources commission shall be scheduled for consideration and action on the application in accordance with the public hearing provisions of Section 17.45.080 of this chapter.

E. A decision to approve a demolition permit shall be based upon the following findings:

1. That the applicant has demonstrated that the proposed demolition is necessary to correct an unsafe or dangerous condition on the property pursuant to Section 17.45.180 of this chapter;

2. That the applicant has demonstrated that denial of the demolition permit application will result in immediate and substantial economic hardship to the owner of said structure, building and/or property, or there are no reasonable alternatives to the demolition as of the time of the hearing; or

3. That the economic benefits of demolition outweigh the loss of a potential historic resource to the community; and

a. That neither repairs nor stabilization of the structure are feasible; and

b. That the replacement building(s) or structure(s) will enhance the character of the neighborhood in which it is located; or

F. In determining whether or not extreme economic hardship exists, the commission shall consider evidence which demonstrates the following:

1. Denial of the demolition application will diminish the value of the subject property so as to leave little or no value for its intended use;

2. Sale or rental of the property at a reasonable rate of return is not feasible or is impractical; and/or

3. Utilization of the property for lawful purposes is prohibited or impractical. (Ord. 662, § 2, 2009)

**17.45.160 Appeal process.**

Any decision by the historic resources commission concerning designation of a historic resource or historic district, or a proposed alteration of a historical resource pursuant to Section 17.45.110 of this chapter, or a proposed demolition of a potentially significant historic building or structure, pursuant to Section 17.45.150 of this chapter, may be appealed in writing to the city council.

A. Except as otherwise provided in this section, any property owner may appeal in writing the decision of the historic resources commission to the city council.

B. The appealing party shall have the burden of proof to provide evidence for overturning the determination made by the historic resources commission.

C. The appealing party shall have thirty calendar days from the date of receipt to initiate an appeal.

D. Failure of any property owner to receive notice shall in no way affect the validity of any action taken.

E. If no appeal is filed with the city clerk within thirty calendar days following the decision of the historic resources commission, such decision shall be final.

F. Following receipt of a written appeal, a public hearing before the city council shall be scheduled and conducted within thirty calendar days of receipt of notice of appeal in accordance pursuant to this section. (Ord. 662, § 2, 2009)

**17.45.170 Revocation of historic resource designation.**

Once so designated as a historic resource pursuant to this chapter, revocation of a historic resource designation shall be undertaken as follows:

A. A property owner may submit a written request to the community development director for the revocation of historic resource designation on his/her property stating the reasons for such request.

B. The historic resources commission shall receive the written request at its next regularly scheduled meeting and schedule a public hearing pursuant to the provisions of Section 17.45.080 of this chapter.

C. The historic resources commission shall consider testimony presented by the property owner or owners and the public and make a recommendation to the city council to approve or deny the requested revocation.

D. The city council shall hold a public hearing at a regularly scheduled meeting to

consider the revocation request and recommendation of the historic resources commission.

E. Revocation of a historic resource designation shall be based on one or more of the following findings:

1. That the historic resource no longer has significant aesthetic, architectural, or engineering value of an historic or cultural nature; and

2. That the revocation of a historic resource designation is consistent with the stated purpose of this chapter. (Ord. 662, § 2, 2009)

**17.45.180 Unsafe or dangerous conditions.**

None of the provisions of this chapter shall be construed to prevent any measure of construction, alteration, removal, or demolition necessary to correct the unsafe or dangerous condition of any structure or other feature, or part thereof, where such condition has been declared unsafe or dangerous by the building official and where the proposed measures have been declared necessary, by the building official, to correct the condition; provided, however, only such work as is absolutely necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any structure or other feature shall be damaged by fire, or other calamity, or by act of God to such an extent that, in the opinion of the building official, it cannot reasonably be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws. (Ord. 662, § 2, 2009)

**17.45.190 Time extensions.**

If any action under this chapter is subject to the provisions of the California Environmental Quality Act (Pub. Res. Code sections 21000 et seq.), the time in which

such action must be taken shall be extended in order to comply with the provisions of said Act. (Ord. 662, § 2, 2009)

#### **17.45.200 Enforcement and penalties.**

A. General. It shall be the duty of community development director, or the community development director's delegate, to administer and enforce the provisions of this chapter.

B. Violation. It is unlawful for a person or entity to alter or demolish or cause to be altered or demolished any historic resource or portion thereof in violation of any provisions of this chapter.

C. Civil and Criminal Penalties. It shall be unlawful for any person to permit or maintain violations of the provisions of this chapter by undertaking the alteration, grading, removal, demolition, or partial demolition of an historic resource without first obtaining the written approval of the community development director, the historic resources commission, planning commission or city council as provided in this chapter, or to defy any order or decision rendered by the community development director, the historic resources commission, planning commission or city council.

1. Any violations of this chapter shall be enforced as provided by Chapter 1.04 of this code.

2. Notwithstanding the aforesaid, any person or entity who demolishes a historic resource in violation of the provisions of the chapter, shall be liable civilly for payment of a sum equal to the replacement value of the building or structure in kind, or up to an amount set at the discretion of the court.

3. As part of the enforcement proceeding, violators may be required to reasonably restore the building, structure, object or site to its appearance or condition prior

to the violation, under the guidance of the historic resources commission and/or direction of the building official.

D. Injunctive Relief. The city attorney may maintain an action for injunctive relief to restrain a violation or correct a violation, or cause, where possible, the complete or partial restoration, reconstruction, or replacement in kind of any historic resource demolished, altered or partially demolished, or allowed to fall below minimum maintenance standards in violation of this chapter.

E. New Construction. A lot which is the site of alteration or demolition of an historic resource in violation of this chapter shall not be developed in excess of the dwelling unit density and/or building footprint, of the altered or demolished building or structure for a period of five years from the unlawful alteration or demolition. A person or entity may be relieved of the penalties provided in this section if, as to an unlawful alteration, the person or entity restores the original distinguishing qualities and character of the building or structure destroyed or altered. Such restoration must be undertaken pursuant to a valid building permit issued after a recommendation by the historic resources commission, and a finding by the city council that the proposed work will effect adequate restoration and can be done with a substantial degree of success.

F. Remedies Not Exclusive. The remedies in subsections B through E of this section are not mutually exclusive. (Ord. 662, § 2, 2009)

## Chapter 17.46

### APPEALS

#### Sections:

- 17.46.010**    **Applicability.**
- 17.46.020**    **Right to appeal.**
- 17.46.030**    **Appeals of planning director actions.**
- 17.46.040**    **Appeals of planning commission actions.**

#### **17.46.010**    **Applicability.**

This chapter applies to all zoning appeals, except where other specific appeal procedures are prescribed by this title, in which case such prescribed procedures shall be followed. (Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.46.020**    **Right to appeal.**

Decisions of the planning director or planning commission may be appealed by an applicant or any aggrieved person, including the planning commission and the city council, and individual members thereof. An appeal shall be filed in the form of a letter setting forth the reasons for the appeal. An appeal shall be accompanied by any fees required as set from time to time by resolution of the city council. Appeal fees shall not be required for appeals initiated by the planning commission or the city council. When an appeal has been filed, the planning director will prepare a report on the matter and schedule the appeal for consideration by the appropriate body within forty-five days of receipt of the appeal. The hearing body may affirm, affirm in part, or reverse the action, decision or determination which is the subject of the appeal, based upon findings of fact regarding the particu-

lar case. Such findings shall identify the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with the provisions of this title. (Ord. 524 § 2 (Exbt. A) (part), 1993; Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.46.030**    **Appeals of planning director actions.**

Determinations on the meaning or applicability of the provisions of this title which are believed to be in error, and cannot be resolved with staff, and any decision of the planning director to approve or deny an application may be appealed to the planning commission. The planning director shall provide the planning commission and city council with notification of its actions. Appeals shall be filed with the secretary of the planning commission within fourteen days after the decision of the planning director. The appeal will be decided by the planning commission following a public hearing conducted in accordance with Section 17.42.030 (Public hearing and notice). (Ord. 524 § 2 (Exbt. A) (part), 1993; Ord. 445 § 2 (Exbt. A) (part), 1986)

#### **17.46.040**    **Appeals of planning commission actions.**

Any decision of the planning commission may be appealed to the city council by filing a letter of appeal with the city clerk within fourteen days of the action of the planning commission. The planning director shall provide the city council with notification of the planning commission actions. Appeals will be decided by the city council following a public hearing conducted in accordance with Section 17.42.030 (Public

hearing and notice). (Ord. 524 § 2 (Exbt. A)  
(part), 1993; Ord. 445 § 2 (Exbt. A) (part),  
1986)

## Chapter 17.48

## AMENDMENTS

## Sections:

- 17.48.010 General procedure.
- 17.48.020 Special procedure—  
When required.
- 17.48.030 Initiation of  
amendments.
- 17.48.040 Application by property  
owner.
- 17.48.050 Public hearing by  
planning commission.
- 17.48.060 Notice of public  
hearing.
- 17.48.070 Contents of notice of  
public hearing.
- 17.48.080 Action by planning  
commission.
- 17.48.090 Denial by planning  
commission.
- 17.48.100 Public hearing by city  
council.
- 17.48.110 Action by city council.
- 17.48.120 Rezoning.
- 17.48.130 Resubmittal of  
application.
- 17.48.140 Notification of county  
assessor.

**17.48.010 General procedure.**

Except as otherwise provided in this chapter, any amendment to this title shall be initiated and adopted as other ordinances are amended or adopted. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.48.020 Special procedure—When required.**

Any amendment of this title which changes any property from one zone to

another or imposes any regulation upon property not theretofore imposed, or removes or modifies any such regulation, shall be adopted as set forth in this chapter. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.48.030 Initiation of amendments.**

Amendments to this title may be initiated by an application of the owner of affected property; or by his agent, or upon its own initiative either the city council or the planning commission may by motion initiate proceedings for such amendment. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.48.040 Application by property owner.**

Application for an amendment to change district boundaries may be made by the owner of record of property for which a change is sought, or by his agent when authorized in writing by the owner, or by a purchaser or lessee of said property when acting pursuant to a written contract with the owner. Application shall be made to the planning commission on a form prescribed by the commission and shall contain (a) a description and map showing the boundaries of existing and requested districts, and identifying the property for which a change of district is requested; (b) a written statement setting forth the reasons for the application and all facts relied upon by the applicant in support thereof; and (c) such additional information as the planning director may deem pertinent to the application. The application shall be accompanied by a fee in an amount fixed by resolution of the city council. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.48.050 Public hearing by planning commission.**

Upon receipt of an application for a change in district boundaries pursuant to Section 17.48.040, or upon the initiation of an amendment to this title upon motion of the city council or the planning commission, the planning commission shall set a date for a public hearing thereon. Notice of the time and place of the hearing, including a general explanation of the amendment to be considered, shall be given in the manner specified in Section 17.48.060 of this chapter. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.48.060 Notice of public hearing.**

The planning commission shall give notice of hearing on a proposed amendment of the kind described in Section 17.48.020 in the following manner:

A. Notice of the hearing shall be given by publication once in a local newspaper of general circulation not less than ten days prior to the date of hearing.

B. Additionally, written notice of the hearing shall be mailed at least ten days prior to the date of hearing to each owner of record of real property within three hundred feet of the exterior boundaries of the property which is the subject of the proposed boundary change. If the proposed amendment was initiated by a person other than the owner of the subject property; said notice shall also be mailed to the owner as shown on the last equalized assessment roll.

C. In the event that the number of owners to whom notice would be sent pursuant to subsection B of this section is greater than one thousand, the planning commission may, as an alternative, give

such notice at least ten days prior to the date of hearing by placing an insert with any generalizing mailing sent by the city to property owners in the area affected by the proposed amendment, such as billings for city services. Compliance with the procedures set forth in this section constitutes a good-faith effort to provide notice, and the failure of any owner to receive notice shall not prevent the city from proceeding with the hearing or from taking any action, nor shall the failure to receive notice affect the validity of any action so taken. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.48.070 Contents of notice of public hearing.**

The notice of public hearing given pursuant to Section 17.48.060 shall contain the following:

A. In the case of a proposed amendment changing district boundaries, the street address of the affected property, if known, or the location of the property if the street address is not known, and the existing and proposed districts applicable to the property;

B. The time, place and purpose of the hearing;

C. A brief description, the content of which shall be in the sole discretion of the city, of the change in district boundaries or in zoning regulations proposed;

D. Reference to the application or motion on file for particulars;

E. A statement that any interested person may appear and be heard. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.48.080 Action by planning commission.**

After the public hearing, the planning commission shall render its decision in the form of a written recommendation to the city council. The recommendation shall include:

- A. The reasons for the recommendation;
- B. The relationship of the proposed amendment to the general plan and to applicable specific plans;
- C. The findings and determinations of the commission with respect to the proposed amendment. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.48.090 Denial by planning commission.**

Planning commission denial of any proposed amendment shall terminate the proceedings in the matter; except, that in the case of an amendment initiated by the city council, the commission shall forward its recommendation to the council as provided in Section 17.48.080. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.48.100 Public hearing by city council.**

Upon receipt of the recommendation of the planning commission concerning the proposed amendment, the city council shall hold a public hearing thereon. Notice of the time and place of the hearing shall be given in the time and manner provided for the giving of notice of public hearing by the planning commission, as specified in Sections 17.48.060 and 17.48.070. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.48.110 Action by city council.**

After consideration of the recommendation of the planning commission and the completion of the public hearing, the council may approve, modify or disapprove the proposed amendment; provided, that any modification of the proposed amendment by the city council not previously considered by the planning commission during its public hearing on the matter shall first be referred to the planning commission for report and recommendation, but the planning commission is not required to hold a public hearing on the modification. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.48.120 Rezoning.**

The determination of district classifications and district boundaries appropriate for property located outside the city, but potentially subject to annexation, may be made in the same manner as prescribed in this chapter for any property within the city; provided, that any ordinance duly passed by the city council establishing such district classifications and district boundaries shall become effective only upon the effective date of annexation of such property to the city. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.48.130 Resubmittal of application.**

When an application for a change of district boundaries has been submitted by a property owner and subsequently has been denied, no new application by a property owner for the same; or substantially the same, change shall be filed or considered within one year of the date of closing of the hearing on the application before the planning commission. This

provision does not prevent the initiation of proceedings by either the planning commission or the city council. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.48.140 Notification of county  
assessor.**

Within thirty days after the final adoption of an ordinance changing the zoning of any property from one district to another, the city council shall notify the county assessor or such action. (Ord. 445 § 2 (Exbt. A) (part), 1986)

## Chapter 17.49

### ART IN PUBLIC PLACES PROGRAM

#### Sections:

- 17.49.010 Purpose and intent.**
- 17.49.020 Definitions.**
- 17.49.030 Public art or in lieu payment required.**
- 17.49.040 Projects subject to art in public places requirement.**
- 17.49.050 Projects not subject to art in public places requirement.**
- 17.49.060 Application.**
- 17.49.070 Application process.**
- 17.49.080 Art in public places committee.**
- 17.49.090 Performance security.**
- 17.49.100 Guidelines for art works.**
- 17.49.110 Denial of application.**
- 17.49.120 Certificate of occupancy.**
- 17.49.130 Art in public places fund.**
- 17.49.140 Ownership, maintenance and insurance.**
- 17.49.150 Removal or alteration of public art.**
- 17.49.160 Public nuisance.**
- 17.49.170 Infraction violation.**

#### **17.49.010 Purpose and intent.**

The purpose and intent of this chapter is to promote the general welfare and beauty of the city of Soledad through the acquisition and installation of public art works. (Ord. 641 § 1 (part), 2006)

#### **17.49.020 Definitions.**

For the purpose of this chapter, unless otherwise apparent from the context, certain words and phrases are defined as follows:

“Art,” “art work” or “public art” means an original creation of art which is freestanding or free hanging in that it is not a part of a building or other structure, nor an architectural element on or in which the work of art is placed, installed or affixed. Art includes, but is not limited to, sculptures, monuments, wall hangings, tapestries, photographs, etchings, engravings and paintings. Art shall not include decorative, ornamental or functional elements designed by the architect or other design consultant retained for the design and construction of the subject building or art objects that are mass produced with a standard design such as fountains and statuary objects.

“Art in public places committee” shall have the meaning set forth in Section 17.49.080.

“Commercial building” means any building or structure, all or part of which, contain commercial use.

“Construction cost” means the total value of all construction on a commercial or industrial structure.

“Industrial building” means any building or structure, all or part of which, contain industrial use.

“Maintenance” means preservation of the art work in good condition to the satisfaction of the city, protection of the artwork against physical defacement, mutilation or alteration, and securing and maintaining insurance coverage.

“Mural” means a graphic illustration or presentation other than a sign of any type, that is painted or otherwise applied to an inside or outside wall, facade, or surface of a building or structure.

“Public place” means any area on public or private property which is open to the general public and is easily accessible and clearly visible to the general public. (Ord. 641 § 1 (part), 2006)

**17.49.030 Public art or in lieu payment required.**

Any person constructing a commercial or industrial building within the city shall provide art in a public place or make an in lieu payment as provided in this section.

A. The project applicant shall acquire and install an art work in a public place on or in the vicinity of the project site as approved by the city council pursuant to this chapter. The art work shall have a value that equals or exceeds one percent of the total construction cost.

B. In lieu of acquiring and installing an art work in a public place, project applicants may contribute funds to the "art in public places fund" established pursuant to Section 17.49.130. The in lieu payment shall be equal to one percent of the construction cost of the commercial or industrial building and shall be paid by the project applicant at the time of issuance of a building permit. Project applicants shall indicate on their building permit application that they wish to make an in lieu payment. (Ord. 641 § 1 (part), 2006)

**17.49.040 Projects subject to art in public places requirement.**

The requirements of this chapter shall apply to the following:

A. All new commercial and industrial building over fifteen thousand square feet of gross floor area;

B. Remodeling, repair or reconstruction of existing commercial and industrial buildings, interior or exterior, where the building permit value exceeds one hundred thousand dollars in changes to the building, excluding landscaping and "acts of God."

C. All public facilities over fifteen thousand square feet of gross floor area constructed by the city or the redevelopment

agency, except those listed in Section 17.49.050. (Ord. 641 § 1 (part), 2006)

**17.49.050 Projects not subject to art in public places requirement.**

The requirements of this chapter shall not apply to the following:

A. Remodeling, repair or reconstruction of existing commercial and industrial use property which constitutes less than one hundred thousand dollars of building permit value;

B. Residential subdivision and development;

C. Low-income housing construction, remodel, repair or reconstruction projects;

D. Construction, remodel, repair or reconstruction of structures to be constructed and occupied by a nonprofit, social service agency or institution;

E. Underground public works projects;

F. Street or sidewalk repairs;

G. Tree planting.

(Ord. 641 § 1 (part), 2006)

**17.49.060 Application.**

A. An art in public places application shall be made on a form provided by the city no later than application for permits.

B. The following information and documents must be submitted with all applications:

1. If the applicant is:

a. An individual, the applicant shall provide his or her legal name, any aliases, and current driver's license,

b. A partnership, the applicant shall provide the complete name of the partnership, the legal names of all the general partners, and any aliases,

c. A corporation, the applicant shall provide the complete name of the corporation, the legal names and any aliases, and capacity of all officers;

2. The name of the business;
3. The name of the prospective on-site manager or foreman;
4. The type of proposed property use whether commercial or industrial;
5. Square footage of the proposed development project;
6. The location of the property;
7. Option selection:
  - a. Acquire and install an art work in a public place pursuant to subsection A of Section 17.49.030, or
  - b. In lieu payment pursuant to subsection B of Section 17.49.030;
8. A site plan showing the location of the art work, complete with a detailed drawing showing size, scale, colors and description of materials to be used;
9. The applicant shall date and sign the application under penalty of perjury that the information contained in the application is true and correct. (Ord. 641 § 1 (part), 2006)

**17.49.070 Application process.**

The requirements and procedures for processing an art in public places application shall be as follows:

- A. The project applicant shall submit to the building division a completed application, designating which option is being utilized (in lieu or installation of art). In cases where an in lieu payment has been selected, payment of the fee will complete the application process;
- B. Upon receipt of an application and payment of the application deposit fee, the city shall immediately stamp the application as received on that date;
- C. An application submitted pursuant to this section will not be accepted unless the application fee is submitted with the respective application;

D. In those cases under Section 17.49.030(A) not later than thirty days after the city has received the application, the city shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant;

E. In the event the determination is made that the application is not complete, then the written determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they may be made complete;

F. If the written determination is not made within thirty days after receipt of the application, the application shall be deemed complete for purposes of this chapter;

G. Within thirty days after the application has been deemed complete, the staff liaison shall forward a copy of the application to the art in public places committee for its review and comment;

H. Within thirty days after receiving the comment from the development review committee, the staff liaison shall forward a copy of the application and a staff recommendation to the city of Soledad city council for its review and consideration;

I. The city council shall approve, conditionally approve or deny the application with or without prejudice based upon the guidelines set forth in Section 17.49.170 within thirty days of its initial review of the application. (Ord. 641 § 1 (part), 2006)

**17.49.080 Art in public places committee.**

The art in public places committee shall consist of five members appointed by the mayor with the consensus of the city council. The membership should, to the greatest extent possible, consist of persons with knowledge, education, training or experience in the visual

arts. The art in public places committee members shall serve for a term of two years and shall serve without compensation.

The art in public places committee will have the authority and duty to recommend public art works for placement in public and private development projects throughout the city. The committee shall also advise the city council on the use of the public art fund and other matters regarding implementation of the art in public places program pursuant to the adopted guidelines.

The committee shall review art plans for art work to be located within a public place as directed by the city council. In making this determination, the committee shall consider the following criteria:

A. Whether the art work is appropriate as public art and is compatible in scale, material form and content with the surroundings within which it is to be located;

B. The inherent quality of the work of art;

C. Consideration of the structural and surface soundness of the art work and its prominence in terms of relative proof against age, theft, vandalism, weathering or excessive maintenance or repair costs;

D. Whether reasonable diversity in the type of art work in public places is being attained in terms of style, scale, media and materials represented;

E. Recommending themes for artwork e.g., in industrial area, "steel theme";

F. Recommending to the city council purchase or commission of artwork/murals. (Ord. 641 § 1 (part), 2006)

#### **17.49.090 Performance security.**

A. If the applicant has elected to acquire and install public art, then the applicant shall deposit with the city cash, a letter of credit, or other satisfactory security in an amount equal

to the value of the art required by Section 17.49.030(A) within thirty days after the final decision of the city council.

B. If the public art required by this chapter is not installed within the time period set by the city council, then the applicant shall forfeit the security posted with the city and the city shall be permitted to use the security to purchase and install alternate public art within the city. (Ord. 641 § 1 (part), 2006)

#### **17.49.100 Guidelines for art works.**

Guidelines for the approval and maintenance of art in public places shall include, but are not limited to, the following criteria:

A. The art works shall be clearly visible and easily accessible to the public;

B. The application shall include a site plan showing the location of the art work, complete with landscaping, lighting and other accessories to complement and protect the art work;

C. The composition of the art work shall be of permanent type materials in order to be durable against vandalism, theft and weather, and in order to require a low level of maintenance;

D. The art work shall be related in terms of scale, material, form and content to immediate and adjacent buildings and landscaping so that it complements the site and surrounding environment;

E. The art work shall be designed and constructed by persons experienced in the production of such art work and recognized by critics and by his or her peers as one who produces works of art; and

F. The art work shall be a permanent, fixed asset to the property. (Ord. 641 § 1 (part), 2006)

**17.49.110 Denial of application.**

A denial of an application shall be based upon the applicant's failure to comply with the guidelines set forth in Section 17.49.100. (Ord. 641 § 1 (part), 2006)

**17.49.120 Certificate of occupancy.**

No certificate of occupancy shall be issued for buildings subject to this chapter unless and until the applicant has complied with Section 17.49.030(A) or (B). In the event the project applicant has elected to make an in lieu payment to the art in public places fund, the certificate of occupancy shall not be issued until such payment has been paid in full to the city. In the event of remodeling or repairs that meet the chapter requirements, a final inspection shall not be scheduled or performed until all requirements of the chapter are met. (Ord. 641 § 1 (part), 2006)

**17.49.130 Art in public places fund.**

A. Any payments collected in accordance with the in lieu payment provision of this chapter shall be deposited in a separate interest bearing account denominated as the "art in public places funds."

B. The city manager or his or her designee shall establish accounting records sufficient to identify and control the art in public places fund.

C. The art in public places fund shall be used to provide sites for, and works of art in, public places in order to further the intent of this chapter.

D. The art in public places fund shall be used to maintain and insure art works installed pursuant to this chapter.

E. The development review committee shall make recommendations to the city council concerning the use of the art in public places fund to purchase or commission art works.

F. The decision to use the art in public places fund to purchase or commission art work shall be based on the guidelines set forth in Section 17.49.100.

G. All decisions regarding the use of the art in public places fund shall be made by the city council.

H. Administration of the art in public places fund shall comply with the provisions of Government Code Section 66000 et seq. (Ord. 641 § 1 (part), 2006)

**17.49.140 Ownership, maintenance and insurance.**

A. The holder of the certificate of occupancy of the structure for which the public art requirement was imposed is the owner of the art, and is responsible for its maintenance and for providing insurance coverage in the amount of the purchase price to insure the art against any loss or damage, including vandalism. This provision does not apply when the in lieu option is selected.

B. Any art purchased by the city from the art in public places fund shall be the property of the city and shall be maintained and insured by the city. (Ord. 641 § 1 (part), 2006)

**17.49.150 Removal or alteration of public art.**

Public art installed on or integrated into a construction project pursuant to the provisions of this chapter shall not be removed or altered without the approval of the city council. If such public art is knowingly removed or altered without prior approval from the city council, the property owner shall contribute funds equal to the project's original public art requirement to the city's art in public places fund. (Ord. 641 § 1 (part), 2006)

**17.49.160 Public nuisance.**

Failure to comply with Sections 17.49.030 and 17.49.140(A) of this chapter shall constitute a public nuisance which shall be subject to the provisions of Chapter 17.50 of this code. (Ord. 641 § 1 (part), 2006)

**17.49.170 Infraction violation.**

A violation of Sections 17.49.030, 17.49.090(A) and 17.49.150 of this chapter by any person responsible for committing such violation shall constitute an infraction violation and the violator shall be subject to the provisions of Chapter 17.50 of this code, including, but not limited to, the imposition of any and all criminal penalties set forth therein. (Ord. 641 § 1 (part), 2006)

**Chapter 17.50****ENFORCEMENT****Sections:**

- 17.50.010** Enforcement.
- 17.50.020** Declaration of nuisance.
- 17.50.030** Violation—Penalty.

**17.50.010 Enforcement.**

The planning director and all department officials and public employees of the city vested with the duty or authority to issue permits shall do so in conformity with the provisions of this title, and any such permit, certificate, license or other entitlement issued in conflict with this title, intentionally or otherwise, is null and void. It shall be the duty of the planning director and the building official to enforce the provisions of this title pertaining to the erection, construction, reconstruction, moving, conversion, alteration or addition to any building or structure, and to the use of any land, building or premises. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.50.020 Declaration of nuisance.**

Any building or structure set up, erected,

constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this title, and any use of land, building or premises established, conducted, operated or maintained contrary to this title is unlawful and a public nuisance. The city attorney, upon the written request of the planning director or upon direction from the city council, is authorized and directed to commence legal action or proceedings for the abatement, removal and enjoinder thereof. (Ord. 445 § 2 (Exbt. A) (part), 1986)

**17.50.030 Violation—Penalty.**

Any person, whether as principal, agent, employee or otherwise, violating or causing the violation of any provisions of this title, is guilty of an infraction. The fine for the first conviction shall be a minimum of one hundred dollars. The fine for a second conviction of the same municipal code section within one year shall be a minimum of two hundred dollars. For each additional conviction of the same municipal code section within one year, the minimum fine shall be three hundred dollars. (Ord. 467 § 1, 1988; Ord. 445 § 2 (Exbt. A) (part), 1986)