# Chapter XXIII  ZONING[[1]](#footnote-1)

## ARTICLE 23-1. GENERAL PROVISIONS

Sec. 23-1.1. Purpose and Scope.

For the purpose of promoting and protecting the public health, safety, and welfare of the people of the City of Villa Park, to safeguard and enhance the appearance and quality of development of the City, and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources, a zoning chapter establishing classifications of zones and regulations within those zones is hereby established and adopted by the City Council. The adoption of this zoning chapter shall not affect any ordinance the provisions of which are not included in this chapter.

Sec. 23-1.2. Private Agreements.

The provisions of this chapter are not intended to abrogate any easements, covenants, or other existing agreements which are more restrictive than the provisions of this chapter.

Sec. 23-1.3. Existing Law Continued and Repeal of Conflicting Ordinances.

a. The provisions of this zoning chapter, insofar as it is substantially the same as provisions of existing ordinances relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

b. Whenever the provisions of this chapter impose more restrictive regulations upon buildings or structures and the use of them or the use of lands or premises and require larger open spaces or yards or setbacks than are imposed or required by other ordinances, the provisions of this chapter or rules or regulations promulgated thereunder shall govern.

## ARTICLE 23-2. ESTABLISHMENT OF ZONES

Sec. 23-2.1. Division of City into Zones.

In order to classify, regulate, restrict and separate the use of land, buildings and structures to regulate and to limit the type, height, and bulk of buildings and structures in the various districts and to regulate the areas of yards and other open areas abutting and between buildings and structures and to regulate the density of population, the City is hereby divided into the following zones:

a. *Residential Zones.*

1. E-4—Single Family Residential Estate Zone

2. R-1—Single Family Residential Zone

b. *Commercial Zone.*

1. C-N—Commercial Neighborhood Zone

2. C-P—Commercial Professional Zone

c. *Special Purpose Zone.*

1. PC—Planned Community Zone

2. OS—Open Space Zone

d. *Overlay Zone*

1. AC—Architectural Supervision

(Ord. #2016-604, § 2)

Sec. 23-2.2. Adoption of Zones and Maps.

Said several zones and boundaries of said zones and each of them are hereby established and adopted as shown, delineated and designated on the "Official Zoning Map" of the City of Villa Park, Orange County, California, which map, together with all notations, references, data, zone boundaries and other information thereon, is made a part hereof and is adopted concurrently herewith.

Sec. 23-2.3. Filing of Zoning Map.

The original of the official zoning map shall be kept on file with the City Clerk and shall constitute the original record.

Sec. 23-2.4. Changes to the Zoning Map.

Changes in the boundaries of the zones shall be made by ordinance and shall be reflected on the official zoning map.

Sec. 23-2.5. Clarification of Ambiguity.

If ambiguity arises concerning the appropriate classification of a particular use within the meaning and intent of this section, or if ambiguity exists with respect to matters of height, yard requirements or zone boundaries as set forth herein, it shall be the duty of the City Council to ascertain all pertinent facts and by resolution set forth the findings and the interpretations; and, thereafter, such interpretation shall govern.

## ARTICLE 23-3. EFFECTS OF ZONING REGULATIONS

Sec. 23-3.1. Application of Provisions.

The provisions of this chapter governing the use of land, buildings, and structures, the size of yards abutting buildings and structures, the height and bulk of buildings, the density of population, the number of dwelling units per acre, standards of performance and other provisions hereby are declared to be in effect upon all land included with the boundaries of each and every zone established by this chapter.

Sec. 23-3.2. Buildings Under Construction.

Any building for which a building permit has been issued under the provisions of earlier ordinances of the City which are in conflict with this chapter, and on which substantial construction has been performed by integration of materials on the site before the effective date of this chapter, may nevertheless be continued and completed in accordance with the plans and specifications upon which the permit was issued.

Sec. 23-3.3. Approved Tract Maps or Parcels Maps.

Any approved tentative tract map or tentative parcel map which has been approved pursuant to the provisions of earlier ordinances of the City and which is in conflict with this chapter may nevertheless be continued and completed in accordance with the provisions of its approval provided it is completed within the time limit in effect at the time of its approval and provided it complies with all other ordinances and laws in effect at the time of its approval. Final tract maps may be approved pursuant to this section and building and other permits may be issued for any lots created pursuant to this section consistent with such approval.

Sec. 23-3.4. Cannabis-Related Uses, Commercial Cannabis Activities, Deliveries, and Cultivation Prohibited.

a. *Prohibition.* As outlined below, all cannabis-related or medical cannabis-related uses, including dispensaries, cultivation, deliveries, and all other commercial cannabis activities for which a state license is required under the MMRSA or AUMA are prohibited in all zones throughout the City. Accordingly, the City shall not issue any permit, or process any license or other entitlement for any cannabis- or medical cannabis-related use or any other activity for which a State license is required under the MMRSA.

1. *Cannabis-Related Uses.* All cannabis-related uses, including but not limited to cooperatives, deliveries, and dispensaries, are expressly prohibited in all zones and all specific plan areas in the City, regardless of whether the cannabis is used for medicinal purposes, for recreational use, or whether such uses qualify as commercial cannabis activities under the MMRSA. No person shall establish, operate, conduct, permit or allow any cannabis-related use anywhere within the City.

2. *Medical Cannabis Uses.* All medical cannabis-related uses, including but not limited to cooperatives, cultivation, dispensaries, and deliveries, are expressly prohibited in all zones and all specific plan areas in the City, regardless of whether such uses qualify as commercial cannabis activities under the MMRSA. No person shall establish, operate, conduct, permit or allow any medical cannabis-related use anywhere within the City.

3. *Commercial Cannabis Activities.* All commercial cannabis activities, including but not limited to cooperatives, dispensaries, cultivation, and deliveries, are expressly prohibited in all zones and all specific plan areas in the City. No person shall establish, operate, conduct, permit or allow a commercial cannabis activity anywhere within the City.

4. *Cannabis Deliveries.* All deliveries of cannabis and medical cannabis are expressly prohibited in the City. No person shall conduct any deliveries of cannabis or medical cannabis that either originate or terminate at any location within the City.

5. *Cannabis Cultivation.* Subject to the exception below, the cultivation of cannabis or medical cannabis, regardless of whether for commercial, non-commercial purposes, or recreational purposes and including cultivation by a qualified patient or primary caregiver, is expressly prohibited in all zones and all specific plan areas in the City. For indoor cultivation of recreational cannabis, the ban on cultivation extends as far as legally permissible under the AUMA. Indoor cultivation allowed pursuant to the AUMA shall not be visible or apparent other than on the subject property, shall not constitute a health or safety issue, and shall not impact neighboring properties. To the extent allowed by law, no person, including but not limited to a qualified patient or primary caregiver, shall cultivate any amount of cannabis or medical cannabis in the City, regardless of whether or not the cannabis or medical cannabis is intended to be used for medical purposes or otherwise qualifies as commercial cannabis activities under the MMRSA.

b. *Public Nuisance.* Any use or condition cause, or permitted to exist, in violation of any provision of this Section 23-3.4 shall be, and is hereby declared to be, a public nuisance and may be summarily abated by the City pursuant to California Code of Civil Procedure Section 731 or any other remedy available at law.

c. *Civil Penalties.* In addition to any other enforcement permitted by any provision of the Villa Park Municipal Code, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person who violates any provision of this Chapter. In any civil action that is brought pursuant to this Chapter, a court of competent jurisdiction may award civil penalties and costs to the prevailing party.

(Ord. #2015-597, § 3; Ord. #2016-603, § 5)

Editor's note(s)—Ord. #2015-597, § 3, adopted January 26, 2016, amended § 23-3.4 in its entirety to read as herein set out. Former § 23-3.4, pertained to medical marijuana dispensaries prohibited, and derived from Ord. #2010-552.

Sec. 23-3.5. Short-term rentals.

a. *Prohibition.* It shall be unlawful for any person to offer or make available for rent or to rent (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration a residential dwelling, a dwelling unit or a room in a dwelling for less than thirty (30) consecutive days. It shall be unlawful for any person to occupy a residential dwelling, a dwelling unit or a room in a dwelling for less than thirty (30) consecutive days pursuant to a rental agreement, lease, license or any other means, whether oral or written, for compensation or consideration.

b. *Advertising of short-term rentals prohibited.* No person or entity shall maintain any advertisement of a short-term rental prohibited under section 23-3.5.

(Ord. #2018-612, § 2)

## ARTICLE 23-4. ENFORCEMENT

Sec. 23-4.1. Enforcement by City Officials.

The City Council, the City Attorney, the City Manager, the Building Official, the City Clerk and all officials charged with the issuance of licenses or permits, shall enforce the provisions of this chapter. Any permit, certificate, or license issued in conflict with the provisions of this chapter shall be void.

(Ord. #82-323, § 23)

Sec. 23-4.2. Actions Deemed a Nuisance.

Any building or structure erected or maintained or any use of property contrary to the provisions of this chapter shall be and the same is hereby declared to be unlawful and a public nuisance per se.

Sec. 23-4.3. Remedies.

All remedies concerning this chapter shall be cumulative and not exclusive. The conviction and punishment of any person hereunder shall not relieve such persons from the responsibility of correcting prohibited conditions or removing prohibited buildings, structures, or improvements, and shall not prevent the enforced correction or removal thereof.

## ARTICLE 23-5. DEFINITIONS

*"Abut"* shall mean adjoining at or along a common lot line, or corner except where such common lot line is located in a public street right-of-way.

*"Accessory Building"* shall mean a subordinate building, located on a building site, the use of which is incidental to the main building or the use of the land on the same building site.

*"Accessory Use"* shall mean a use customarily incident and accessory to the principal use of the land or building site or to a building or other structure located on the same building site as the accessory use.

*"Activity"* shall mean a business establishment with direct access to a parking lot or public right-of-way and under separate management from any other business establishment within the same building.

*"Actual Construction"* shall mean the actual placing of construction materials in their permanent position fastened in a permanent manner; except that where a basement is being excavated, such excavation shall be deemed to be actual construction or where demolishing or removal of an existing building or structure has been started preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, providing, in all cases that actual construction work be diligently carried on until the completion of the building or structure involved.

*"Administrative Office"* shall mean a place of business for the rendering of service or general administration, but excluding retail sales.

*"Advertise"* or *"Advertisement"* means any written or oral publication, dissemination, solicitation or circulation which is intended to directly or indirectly induce any person to enter into an agreement for the rental of a single-family in violation of this section or the applicable provisions of the City of Villa Park Municipal Code. This definition includes, but is not limited to mailings, print advertisements, Internet listings, e-mail publications or other oral, printed or electronic means.

*"Alley"* shall mean a public or private way not more than twenty (20) feet wide permanently reserved as a secondary means of access to abutting property.

*"Alteration"* shall mean any change of copy, color, size, shape, illumination, position, location, construction, or supporting structure.

*"Ambient Noise Level"* shall mean the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

*"Animal Clinic"* shall mean a place where animals no larger than the largest breed of dogs are given medical or surgical treatment. A facility primarily for treatment of out-patients and where only short-time critical patients are kept longer than twenty-four (24) hours. No boarding of animals shall be permitted.

*"Antenna"* shall mean a system of wires, poles, booms, elements, rods, reflecting discs, ground plane radials, and similar devices capable of being used for the transmission and/or reception of electromagnetic waves.

*"Attached"* shall mean the physical sharing of a common wall between two (2) enclosed, habitable structures.

*"AUMA"* shall mean the Adult Use of Marijuana Act approved as Proposition 64 by the voters of the State of California on November 8, 2016.

*"Automobile Service Station"* shall mean a retail place of business engaged primarily in the sale of motor fuels and supplying only those incidental goods which are required to in the day-to-day operation of automotive vehicles and the fulfilling of motorist needs.

*"Balcony Facia"* shall mean area below second floor and above door height of ground floor on the front of a two-story building.

*"Basement"* shall mean a story partly underground and having more than half of its height above the ground level grade.

*"Boarding House"* or *"Rooming House"* shall mean a building used to provide lodging for compensation, either with or without meals.

*"Borrow Site"* shall mean an area used for the extraction of material in an amount in excess of five thousand (5,000) cubic yards.

*"Boutique"* shall mean an accessory use within a dwelling unit for the sale of handmade crafts and wares on a temporary basis.

*"Breezeway"* shall mean an open walkway between two (2) otherwise detached structures, not exceeding twelve (12) feet at the ridgeline and fifteen (15) feet in length in which a primary residential structure is connected to a detached garage or garage/workshop.

*"Building"* shall mean a permanent or portable structure having either an open lattice roof or fully covered roof supported by columns or walls.

*"Building Area"* shall mean the total floor area of a building measured to the exterior face of the perimeter walls. Total building area shall include all buildings on the site and shall include, but not be limited to: Principal and accessory-use structures, garages, carports, guest houses, pool houses, and storage buildings. Courtyards which are enclosed on all sides shall be calculated as building area for each story by which they are enclosed on all sides. Building areas which exceed the allowable height limit for one-story buildings shall be calculated as an additional story of floor area.

*"Building Height"* shall mean the vertical distance measured from the average existing grade, previously approved grade, or from the averaged level of the finished ground surface within four (4) feet adjacent to the subject building, to the highest point of the building, whichever is most restrictive. Exception: This requirement shall not be construed to restrict the height of chimneys which are constructed to comply with the minimum requirements of the Uniform Building Code.

*Exception:* This requirement shall not be construed to restrict the height of chimneys which are constructed to comply with the minimum requirements of the Uniform Building Code.

*"Building Line"* shall mean an imaginary line on a building site specifying the closest point from an ultimate right-of-way line or a property line where a main building may be located. It may be a line shown as such on a map entitled "Precise Plan of Highway Alignment" or any other officially adopted precise plan, and any amendments thereto. If not such precise plan has been adopted, the building line shall be a line as specified in general requirements of section 23-6.7. The building line shall be at the required distance from, and the measured at right angles to, the ultimate right-of-way line or property line.

*"Building Official"* shall mean the Building Official of the City of Villa Park.

*"Building Site"* shall mean a legally created parcel, or contiguous parcels of land in single or joint ownership; which provides the area and the open spaces required by this Chapter, exclusive of all rights-of-way and all easements that prohibit the surface use of the property; which abuts a street or waterway; and which has a minimum of twenty (20) continuous feet of vehicular and pedestrian access to a street or alley having a right-of-way width of not less than twenty (20) feet.

*"Building Site Area"* shall mean the area computed by deducting from the gross site area any ultimate street rights-of-way together with all rights-of-way and all easements that prohibit the surface use of the site in question.

*"Building Site Coverage"* shall mean the relationship between the gross building areas of the building or buildings, including the area of courtyards enclosed on all sides, and the net area of the site. Said net site area shall be computed by deducting from the gross site area any ultimate street rights-of-way together with all rights-of-way and all easements for vehicular use that prohibit the surface use of the site in question. Site coverage shall be determined by the greater perimeter of all stories in a building. Swimming pools and lattice patio covers which are at least fifty (50) percent open, do not exceed twelve (12) feet in height, and are open on all sides except where attached to the main structure, shall not constitute buildings for the purpose of this definition.

*"Building Site, Panhandle or Flag"* shall mean a building site with access to a street by means of a corridor or accessway which is not less than twenty (20) feet nor more than forty (40) feet in width.

*"Building Site, Through"* shall mean a building site having frontage on two (2) parallel or approximately parallel streets.

*"Business"* or *"Commerce"* shall mean the purchase, sale or other transaction involving the handling or disposition of any article, substance or commodity for profit or livelihood; the ownership or management of office buildings; maintenance and use of offices by professions and trades rendering services.

"*Cannabis*" shall mean all parts of the plant cannabis sativa linnaeus, cannabis indica, or cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" further includes any edible or consumable product infused with any part of the above-referenced cannabis plants. "Cannabis" also means "marijuana" as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. The term "Cannabis" shall also have the same meaning as set forth in Business and Professions Code § 19300.5(f), as may be amended from time to time.

"*Caregiver*" or "*Primary Caregiver*" shall have the same meaning as set forth in Health and Safety Code § 11362.7, as may be amended from time to time.

*"Carport"* shall mean a fully roofed building or a portion of a building, open on two (2) or more sides primarily for the parking of automobiles belonging to the occupants of the property.

*"Cellar"* shall mean a portion of a building partly or wholly underground and having more than one-half of its height below the ground level grade. A cellar shall not be considered a story.

*"Centerline"* shall mean a line as described in the first situation that applies in the following instances:

a. A section line, half section line, or quarter section line whenever a mapped highway is platted on the "Master Plan of Arterial Highways" along a section, half section, or quarter section line.

b. A line shown as a centerline on a map entitled "Precise Plan of Highway Alignment," and any amendments thereto.

c. A line shown as a centerline on a recorded tract map, an approved record of survey map, or a parcel map.

d. A line in the center of the ultimate street right-of-way.

*"City"* shall mean the City of Villa Park.

*"City Attorney"* shall mean the City Attorney of the City of Villa Park.

*"City Engineer"* shall mean the City Engineer of the City of Villa Park.

*"City Manager"* shall mean the City Manager of the City of Villa Park.

*"Clinic, Medical"* shall mean an organization of doctors providing physical or mental health service and medical or surgical care of the sick or injured but shall not include in-patient or overnight accommodations.

*"Club"* shall mean an association of persons for some common purpose but not including groups organized primarily to render service which is customarily carried on as a business.

*"Commercial"* shall mean operated or carried on primarily for financial gain.

"*Commercial Cannabis Activity*" shall have the same meaning as set forth in Business and Professions Code § 19300.5(j), as may be amended from time to time, or any activity pertaining to medical or recreational marijuana.

*"Commercial Coach"* shall mean a vehicle, with or without motive power, designed and equipped for human occupancy for industrial, professional or commercial purposes.

*"Commercial District"* shall mean the inclusion of the CN-AC District.

*"Commercial Recreation"* shall mean any use or development either public or private, providing amusement, pleasure, or sport; which is operated or carried on primarily for financial gain.

*"Communication Equipment Building"* shall mean a building housing operating mechanical or electronic switching, and microwave receiving equipment of a telephone or similar communication system and personnel necessary for operation of such equipment.

*"Community Facility"* shall mean a noncommercial use established primarily for the benefit and enjoyment of the population of the community in which it is located.

*"Condominium"* shall mean 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 or commercial building on such real property such as an apartment, office or store. A condominium may include in addition a separate interest in other portions of such real property.

"*Cooperative*" shall mean two (2) or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering, or making available marijuana, with or without cultivation.

*"Council"* shall mean the City Council of the City of Villa Park.

*"County"* shall mean the County of Orange.

*"County Recorder"* shall mean the County Recorder of the County of Orange.

*"Court Surface"* shall mean the area of a lot established for recreational court purposes. The court surface may or may not be paved, or marked by permanent boundaries.

"*Cultivation*" or "*Cultivate*" shall have the same meaning as set forth in Business and Professions Code § 19300.5(k), as may be amended from time to time.

*"Cut off"* shall mean a light source is cut off at the point where neither the light source nor its image from a reflecting fixture is directly visible.

*"Cumulative Period"* shall mean an additive period of time composed of individual time segments which may be continuous or interrupted.

*"Decibel (dB)"* shall mean a unit which denotes the ratio between two (2) quantities which are proportional to power: the number of decibels corresponding to the ratio of two (2) amounts of power is ten (10) times the logarithm to the base 10 of this ratio.

"*Delivery*" shall have the same meaning as set forth in Business and Professions Code § 19300.5(m), as may be amended from time to time.

*"Density"* shall mean the total number of dwelling units permitted on an acre of land exclusive of all existing public streets and rights-of-way.

*"Detached"* shall mean the physical separation of six (6) feet or greater between structures and eighteen (18) inches or greater between minor structures. Where there are wall openings (windows and/or doors) on adjacent walls of two (2) structures used for residential occupancy on the same lot, such structures shall be separated by a distance of not less then ten (10) feet.

*"Detached Patio"* shall mean a patio structure that is physically separated by a minimum of two (2) inches or greater between structures.

*"Directory"* shall mean a sign identifying the name and location of tenants of a single building.

"*Dispensary*" shall have the same meaning set forth in Business and Professions Code § 19300.5(n), as may be amended from time to time. For purposes of this Chapter, Dispensary shall also include a cooperative. Dispensary shall not include the following uses: (1) a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code; (2) a health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code; (3) a residential care facility for persons with chronic life threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code; (4) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code; (5) a residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.

*"Driveway"* shall mean a vehicular passageway for the exclusive use of the occupants of a property and their guests. A driveway shall not be considered as a street.

*"Dwelling, Multiple-Family"* shall mean a permanent building containing two (2) or more dwelling units.

*"Dwelling, Single-Family"* shall mean a permanent building containing one (1) dwelling unit.

*"Dwelling Unit"* shall mean one (1) or more rooms and a single kitchen, designed for occupancy by one (1) family for living and sleeping purposes.

"*Easement*" shall mean a recorded right or interest in the land of another, which entitles the holder thereof to some use, privilege or benefit out of or over said land.

"*Educational Institution*" shall mean private or public schools, colleges or universities qualified by the State Board of Education to give general academic instruction.

"*Electric Distribution Substation—Local*" shall mean an assemblage of equipment which is part of a system for the distribution of electric power which electric energy is received at a subtransmission voltage and transformed to a lower voltage for distribution for general local customer use.

"*Electric Transmission Substation*" shall mean an assemblage of equipment which receives, transforms and distributes electric energy where electric energy is received at very high voltage and transformed to lower subtransmission voltage for distribution to large individual consumers, other power-producing agencies or local electric distribution substations.

"*Exterior Property Line*" shall mean a property line abutting a public or private street.

"*Family*" shall mean an individual or two (2) or more persons living together as a single housekeeping unit in a single dwelling unit.

"*Fence*" shall mean any type of fence, walls used as fences, screens, hedges and thick growths of shrubs or trees but does not include windbreaks for the protection of orchards or crops.

"*Floor Area, Gross*" shall mean the total horizontal area, in square feet, including the exterior walls of all floors of a structure.

"*Floor Area Ratio"* shall mean the numerical value obtained by dividing the gross floor area of a building or buildings located upon a lot or parcel of land by the total area of such lot or parcel of land.

*"Front Yard Area"* shall mean the area from the front property line to the primary residence, to include the required front yard setback.

"*Garage, Private*" shall mean a building, or a portion of a building, used primarily for the parking of automobiles belonging to the occupants of the property. All private garages shall be accessible and usable for the purpose for which built.

"*General Plan*" shall mean the General Plan of the City of Villa Park and shall consist of the General Plan Map and Report adopted by the City Council.

"*Grade, Ground Level*" shall mean the average level of the finished ground surface within four (4) feet adjacent to the subject building.

"*Grade, Natural*" shall mean the natural grade prior to excavation unless superceded by an approved tract map.

"*Guest House*" shall mean a detached building not exceeding twelve hundred (1,200) gross square feet of floor space having no kitchen facilities, which is used primarily for sleeping purposes for members of the family occupying the main dwelling and their nonpaying guests.

"*Habitable Room*" shall mean any room meeting the requirements of the Uniform Building Code, as adopted by the County of Orange, for sleeping, living, cooking or dining purposes, excluding such enclosed spaces as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms, and similar spaces.

"*Home Occupation*" shall mean an occupation conducted as an accessory use within a dwelling unit.

"*Junk*" shall mean any worn-out, cast-off or discarded article or material.

"*Kennel*" shall mean any property where four (4) or more dogs or four (4) or more cats over the age of four (4) months are kept or maintained for any purpose except for veterinary clinics and hospitals.

"*Key Lot*" shall mean any lot where the side property line abuts the rear property line of one (1) or more lots and where said lots are not separated by an alley or any other public way.

"*Lot*" shall mean any numbered parcel shown on a recorded tract map, a record of survey recorded pursuant to an approved division of land or parcel map, or any parcel shown on the County Assessor's book as being a separate parcel.

"*Lot, Corner*" shall mean a lot located at the intersection or interception of two (2) or more streets at an angle of not more than

one hundred thirty-five (135) degrees. If the angle is greater than one hundred thirty-five (135) degrees, the lot shall be considered an "Interior Lot".

"*Lot Line*" shall mean any line bounding a lot as herein defined.

"*Lot Line, Exterior*" shall mean a lot line abutting a public or private street.

"*Lot Line, Front*" shall mean on an interior lot, the front lot line is as established for the main building.

"*Lot Line, Interior*" shall mean a lot line not abutting a street.

"*Lot Line, Rear*" shall mean a lot line which is not a front or side lot line.

"*Lot Line, Side*" shall mean any lot line which intersects a front lot line and does not have an angle point within the line that is less than one hundred fifty (150) degrees. In no event shall a side lot line have more than one (1) angle point.

"*Lot, Panhandle or Flag*" shall mean a lot with access to a street by means of a corridor or accessway which is not less than twenty (20) feet nor more than forty (40) feet in width.

"*Lot, Reverse Corner*" shall mean a corner lot, the side line of which is substantially a continuation of the front lot lines of the lot to its rear, whether across an alley or not.

"*Lot, Through*" shall mean a lot having frontage on two (2) dedicated parallel or approximately parallel streets.

"*Lot Width*" shall mean the average horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

"*Mast*" shall mean any structure or device with a circumference less than five (5) inches which is affixed to the ground, or attached to a building and is used to support an antenna.

"*Master Plan of Arterial Highways*" shall mean an element of Villa Park's General Plan designating adopted and proposed routes for all commuter, secondary, primary, and major highways within the City.

"*Master Plan of Drainage*" shall mean an engineering report outlining the drainage facilities needed for the proper development of a specific increment of the City and duly adopted by the City Council.

"*Medical Cannabis*" shall have the same meaning as set forth in Business and Professions Code § 19300.5(af), as may be amended from time to time.

"*Medical Marijuana Regulation and Safety Act*" or "*MMRSA*" shall mean and refer to the following three bills signed into law on October 9, 2015 as the same may be amended from time to time: AB 243, AB 246, SB 643.

*"Minor Structures and Mechanical Equipment"* shall mean trash enclosures, storage sheds or playhouses less than one hundred twenty (120) square feet, doghouses, play equipment, fountains, enclosed water heaters, barbecues, garden walls, air conditioners, pool filters, vents and other similar structures and mechanical equipment greater than six (6) inches in height.

"*Natural Grade*" shall be defined as the elevation of the grade prior to any proposed changes or construction. It may either be the contours of undisturbed soil or the contours established by an approved tract map and/or grading plan.

"*Noncommercial*" shall mean an enterprise or activity which is not normally conducted for profit or gain and which is of a type not normally conducted for profit or gain.

"*Nonconforming Exterior Lighting*" shall mean exterior lighting for recreational courts installed prior to April 20, 1975, and which is in conflict with Article 23-18 of the zoning chapter.

"*Nonconforming Sign*" shall mean a sign which was validly installed under laws or ordinances in effect prior to the effective date of this Chapter or subsequent revisions, but which is in conflict with the provisions of this Chapter.

"*Nonconforming Structure*" shall mean a lawfully established building or structure that does not conform to the regulations of this Code, or is designed for a use that does not conform to the regulations of this Code, for the district in which it is located, either at the effective date of this Code or as the result of subsequent amendments to this Code.

"*Nonconforming Use*" shall mean the lawfully established use of a building, structure or land that does not conform to the use regulations of this Code for the district in which it is located, either at the effective date of this Code or as the result of subsequent amendments to this Code.

"*Parking Area, Private*" shall mean an area, other than a street, designed or used primarily for the parking of private vehicles and not open to general public use.

"*Parking Area, Public*" shall mean an area, or other than a private parking area or street, used for the parking of vehicles and available for general public use, either free or for remuneration.

"*Parking Area, Restricted*" shall mean an area used for parking vehicles on a semipermanent basis and not available to the general public for hourly or day-to-day parking.

"*Planning Director*" shall mean the City Manager of the City of Villa Park.

"*Precise Plan of Highway Alignment*" shall mean a plan, supplementary to the Master Plan of Arterial Highways, which establishes the highway center line, the ultimate right-of-way lines, and may establish building setback lines.

"*Preliminary Landscaping Plan*" shall mean a plan indicating the approximate location, size, type of plant materials and ground cover to be located in the yards and other open areas of a property development.

"*Preliminary Plan for the Control and Disposal of All Waters Flowing Into, Across or From a Development*" shall mean a plan which includes, but is not limited to the following:

a. The location of any existing watercourses, channels, storm drains, culverts, or other drainage facilities affecting the property.

b. The location of any proposed drainage facilities and any proposed drainage easements affecting the property.

c. The drainage area tributary to the property and a statement setting forth in detail but not quantitatively the manner in which waters will enter the property, the manner in which they will be carried through the property, and the manner in which proper disposal beyond the boundary of the property will be assured.

"*Premises*" shall mean a lot or a building site, or a specified portion of a lot or building site, that contains the structures and the open spaces needed for the location, maintenance, and operation of the use of the property.

"*Professional Office*" shall mean a place of business for any of the following only: accountants, architects, attorneys, bookkeeping services, brokers (stocks and bonds), building designers, doctors, dentists, optometrists, oculists, chiropractors, chiropodists, others licensed by the State of California to practice the healing arts, drafting services, financial institutions (including banks, savings and loan associations, credit unions and credit reporting agencies), engineers, surveyors and planners, insurance agencies and brokers, interior decorators and designers (no retail sales allowed on premises), laboratories (medical and dental), landscape architects, pharmacies (sale of drugs and medicines by prescription only), notaries public, public stenographers, typing and secretarial services.

"*Public Utility Booster Station*" shall mean a structure and the equipment needed for boosting current or pressure along public utility service or supply lines.

"*Public Utility Service Yard*" shall mean any buildings or premises used for the office, warehouse, storage yard or maintenance of a public utility including microwave repeater or receiving stations when incorporated as part of the service yard use.

"*Qualifying Patient*" or "*Qualified Patient*" shall have the same meaning as set forth in Health and Safety Code section 11362.7 as may be amended from time to time.

"*Recreational Court*" shall mean a planned area at, above, or below existing ground level in which recreational activities relating to physical competition are conducted. It is generally a quadrangular space marked off for playing one (1) or more various games with a ball or other object. This includes, but is not limited to, tennis, paddle tennis, badminton, basketball and volleyball. A swimming pool is not considered a recreational court.

"*Residential Zones*" shall mean the following zones: E-4 Single-Family Residential Estate and R-1 Single-Family Residential.

"*Retail*" shall mean the selling of goods, wares or merchandise directly to the ultimate consumer.

"*Riding and Hiking Trails*" shall mean a trail or way designed for and used by equestrians, pedestrians, and cyclists using non-motorized bicycles.

"*Right-of-Way*" shall mean an area or strip of land, either public or private, on which an irrevocable right of passage has been recorded for the use of vehicles or pedestrians or both.

"*Satellite Receiving Antenna*" shall mean any dish-shaped antenna designed to receive direct satellite signals.

"*Satellite Receiving Antenna Diameter*" shall be measured by the line bisecting the dish-shaped antenna extending from the outer edge on one side to the outer edge on the opposite side.

"*Setback Area*" shall mean the area between the building line and the property line or, when abutting a street, the ultimate right-of-way line.

"*Setback Distance*" shall mean the distance between the building line and the property line or when abutting a street, the ultimate right-of-way line.

"*Shopping Center*" shall mean a commercial center, or group of commercial establishments, planned, developed, managed, and maintained as a unit; with common off-street parking provided to serve all uses on the property.

"*Short-term Rental*" means the use of any dwelling unit or portion thereof where residential uses are allowed, for a period of less than thirty (30) consecutive days in exchange for compensation, financial or otherwise.

"*Sign*" shall mean any medium for visual communication, including its structure and component parts, which is used or intended to be used to attract attention to an activity for identification or advertising purposes.

"*Sign Area"* shall mean the area included within the outer dimensions of a sign. In the case of "skeleton letters" or other signs placed on a wall without any border, the area shall be the inscribed area.

*"Sign Copy"* shall mean any words, letters, numbers, figures, designs, or other symbolic representations incorporated into a sign with the purpose of attracting attention to the subject matter.

*"Sign, Directly Lighted"* shall mean a sign which has light cast on the surface from an interior source.

"*Sign, Exterior"* shall mean any sign, whether or not contained within a building, that is readily visible from without a building and used or intended to be used to attract attention to an activity for identification, information or advertising purposes.

*"Sign, Illegal"* shall mean any sign placed without proper City approval and/or permits as required by this Code at the time said sign was placed. "Illegal sign" shall also mean any nonconforming sign which has exceeded its authorized amortization period.

"*Sign, Illuminated*" shall mean any sign in which an artificial source of light is used.

"*Sign, Interior*" shall mean any sign located within a building and is not used or intended to be used to attract attention from the exterior of the building.

"*Sign, Permanent*" shall mean any exterior sign used or intended to be used for a period in excess of thirty (30) days.

"*Sign, Permanent Window"* shall mean any lettering attached to the interior of the frontage glass for the purpose of identifying hours and emergency telephone numbers.

"*Sign, Professional Service, Door/Wall Plaque*" shall mean any engraved metal plaque attached to the entrance door or the wall adjacent to an entrance to identify professional offices.

"*Sign, Roof*" shall mean a sign erected between the lowest and highest points of the roof.

*"Sign, Temporary Window"* shall mean any temporary lettering, posters or signs attached to the interior of the frontage glass of an activity.

*"Sign, Wall"* shall mean any sign which is attached or erected on the exterior wall of a building with the exposed face of the sign parallel to said wall.

"*Site Plan*" shall mean a plan, prepared to scale, showing accurately and with complete dimensioning all of the uses proposed for a specific parcel of land, including but not limited to elevations, grading and landscaping.

"*Slope*" shall mean a natural or artificial incline, as a hillside or terrace. Slope is usually expressed as a ratio. For example, a horizontal distance of one hundred (100) feet with a rise of fifty (50) feet would be expressed as a 2:1 slope.

"*Small diameter satellite receiving antenna*" shall mean any dish-shaped satellite receiving antenna that is one meter or less in diameter designed to receive direct satellite signals.

"*Spa*" shall mean the same as "swimming pools."

"*State*" shall mean the State of California.

"*Story*" shall mean that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story.

"*Story, First,*" shall mean the lowest story in a building which qualifies as a story, as defined herein, except that a floor in a building having only one (1) floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade as defined herein, for more than fifty (50) percent of the total perimeter, or not more than eight (8) feet below grade, as defined herein, at any point.

"*Street*" shall mean a public or private vehicular right-of-way other than an alley.

"*Structural Alterations*" shall mean any change in the supporting members of a building or structure.

"*Structure*" shall mean anything constructed or erected requiring a fixed location on the ground or attached to something having a fixed location on the ground except business signs. A structure shall include anything defined as a structure under the Uniform Building Code and shall include tents, tent canopies, shade covers, awnings, and other freestanding structures of a similar nature.

"*Supplemental Shielding*" shall mean supplemental light shielding which shall be an attachment to the lighting fixture not extending more than one (1) foot from the fixture in any direction.

"*Support Pole*" shall mean the structure which is utilized to support one (1) or more light fixtures.

"*Supportive housing*" shall mean housing with no limit on the length of stay, that is occupied by the target population, as defined by Section 65582(g) of the Government Code, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible work in the community. Supportive housing is a residential use of property that is subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

"*Swimming Pool*" shall mean an artificial body of water having a depth in excess of eighteen (18) inches, designed, constructed and used for swimming, dipping or immersion purposes by men, women or children.

*"Temporary Outdoor Merchandise Display"* shall mean the sale or display of goods outside of the premises that is limited to no more than two days per calendar week."

"*Toe of Slope*" shall mean that point or line of initial break where the terrain changes to an upward direction.

"*Top of Slope*" shall mean that point or line of initial break where the terrain changes to a downward direction.

"*Tower*" shall mean any structure or device with a circumference greater than five (5) inches which is affixed to the ground, or attached to a building, and is used to support an antenna.

"*Transitional Housing*" shall mean buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months from the beginning of the assistance. Transitional housing is a residential use of property that is subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

"*Ultimate Right-of-Way*" shall mean the right-of-way shown as ultimate on an adopted precise Plan of Highway Alignment; or the street rights-of-way shown within the boundary of a recorded tract map, a recorded parcel map, or a recorded PC Development Plan. The latest adopted or recorded document in the above cases shall take precedence. If none of these exist, the ultimate right-of-way shall be considered the right-of-way required by the highway classification as shown on the Master Plan of Arterial Highways. In all other instances, the ultimate right-of-way shall be considered to be the existing right-of-way in the case of a private street, and the existing right-of-way, but not less than fifty (50) feet, in the case of a public street.

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

"*Vehicular Accessway*" shall mean a private, nonexclusive vehicular easement affording access to abutting properties.

"*Visual Obstruction*" shall mean any fence, hedge, tree, shrub, wall or structure exceeding three and one-half (3½) feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys or driveways. This does not include trees kept trimmed of branches below a minimum height of seven (7) feet.

"*Wing Wall*" shall mean an architectural feature in excess of six (6) feet in height which is a continuation of a building wall projecting beyond the exterior walls of a building.

"*Yard*" shall mean the area between the property line and the main structure.

"*Yard Sale*" or *"Garage Sale"* shall mean an accessory use within a Residential Zone for the sale of miscellaneous personal property by an owner or occupant of a dwelling unit within such zone.

"*Zone*" shall mean a zoning district established by this Chapter which has been given a particular designation governing its use and specific development.

*"Zone, Change of"* shall mean the legislative act of removing one (1) or more parcels of land from one zoning district and placing them in another zoning district on the official zone map of the City.

"*Zone Map*" shall mean the official zone map of the City of Villa Park which is a part of the zoning chapter.

"*Zoning Administrator*" shall mean the City Manager of the City of Villa Park.

"*Zoning Ordinance*" shall mean the zoning chapter of the City of Villa Park.

(Ord. #85-343, § 1; Ord. #86-353, § 1; Ord. #88-368, § 1; Ord. #88-378, § 2; Ord. #91-394, §§ 1, 2; Ord. #93-418, § 1; Ord. #95-431, § 1; Ord. #96-439, § 1; Ord. #2002-482, §§ 1, 2; Ord. #2005-514, § 1; Ord. #2010-552, § 4; Ord. #2011-559, § 4; Ord. #2015-97, § 4; Ord. #2016-603, § 4; Ord. #2016-604, § 3; Ord. #2018-612, § 3)

## ARTICLE 23-6. E-4 SINGLE-FAMILY RESIDENTIAL ESTATE AND R-1 SINGLE-FAMILY RESIDENTIAL ZONE REGULATIONS

Sec. 23-6.1. Purpose and Intent.

The E-4 Zone is established to provide for the development of medium-low density single-family residential neighborhoods in which open spaces and deep setbacks predominate. The R-1 Zone is established to provide for the development of medium-density single-family residential neighborhoods. Only those additional uses are permitted that are complementary to, and can exist in harmony with, a residential neighborhood.

Sec. 23-6.2. Principal Uses Permitted.

Any of the following principal uses:

a. Single-family dwellings (one (1) per building site);

b. Parks and playgrounds, public and private (noncommercial);

c. Riding and hiking trails;

d. Horticulture of all types (noncommercial); and

e. Emergency shelters.

(Ord. #2012-567, § 2; Ord. #2016-604, § 4)

Sec. 23-6.3. Principal Uses Permitted Subject to a Conditional Use as Provided in Article 23-19.

Any of the following principal uses:

a. Communication equipment buildings;

b. Community television receiving and distribution systems;

c. Educational institutions;

d. Public utility and public service substations, reservoirs, pumping plants and similar installations not including public utility offices;

e. Fire, paramedic and police stations;

f. Microwave radio and television relay transmitters;

g. Natural gas booster stations;

h. Private water pumping stations;

i. Noncommercial kennels;

j. Public libraries;

k. Sewage lift stations;

l. Recreational courts in compliance with the regulations provided in Article 23-17;

m. Wholesale nurseries and related uses;

n. Accessory buildings and structures necessary and customarily incidental to a principal use permitted in residential zones in compliance with the regulations provided in section 23-6.10.

(Ord. #98-451, § 1; Ord. #99-466, § 1; Ord. #2012-567, § 3)

Sec. 23-6.4. Temporary Uses Permitted in Compliance with the Regulations Provided in Article 23-6 or Article 23-11.

a. Model homes, model home sales complex, temporary real estate offices, and signs within subdivisions;

b. Mobile home residence during construction;

c. Continued use of an existing building during construction of a new building on the same building site;

d. Real estate signs;

e. Christmas tree sales facilities;

f. Fireworks sales facilities;

g. Animal husbandry or agricultural educational projects.

Sec. 23-6.5. Accessory Uses Permitted.

Any of the following customary uses and structures:

a. Detached private garages and carports, in compliance with the regulations provided in section 23-6.10.

b. Swimming pools and spas, in compliance with the regulations provided in section 23-6.12.

c. Fences and walls, in compliance with the regulations provided in sections 23-6.11 and 23-6.13.

d. Home occupations in compliance with the regulations provided in Article 23-14.

e. Antennae and towers in compliance with the regulations provided in section 23-6.8.

f. Exterior lighting in compliance with the regulations provided in Article 23-17.

g. Detached accessory buildings in compliance with the regulations provided in section 23-6.10.

h. Signs in compliance with the regulations provided in Article 23-16.

i. Accessory uses, buildings and structures necessary and customarily incidental to a principal use permitted in residential zones in compliance with the regulations provided in section 23-6.10.

j. Accessory dwelling units in compliance with Article 23-22.

k. Temporary stands for the sale of horticultural products grown or produced on the premises where sold upon the following conditions:

1. The stand shall not be in place for a period of more than one hundred and twenty (120) days in any one calendar year.

2. The floor area of the stand shall not exceed one hundred (100) square feet.

3. The stand shall be exclusively of wood frame type construction.

4. The owner shall remove such stand at his expense when it is not in use.

5. No stand shall be less than twenty (20) feet from the right-of-way line of any street or highway.

l. Fallout shelters may be located on any portion of the building site, provided that:

1. The shelter is constructed in accordance with plans approved by the Building Official, and as such used only during an actual or imminent enemy attack by nuclear device, or during a practice test of same authorized and conducted by the proper public authorities; and

2. If the shelter is located in the front one-half of the lot, it shall be entirely under the unmounded ground surface, except for such openings as required by the approved plans; and

3. No shelter shall be constructed within the ultimate right-of-way of any highway shown on the Master Plan of Arterial Highways.

m. Any other accessory use or structure permitted by and in compliance with the regulations provided in subsection 23-6.10.

(Ord. No. 95-431, § 2; Ord. #2018-608, § 2; Ord. #2023-629, § 2)

Sec. 23-6.6. Accessory Uses Permitted Subject to a Conditional Use Permit as Provided in Article 23-19.

Any other accessory use or structure not expressly permitted in subsection 23-6.5 may be permitted subject to a conditional use permit as provided in Article 23-19.

Sec. 23-6.7. Property Development Standards: Residential Zones.

The following property development standards shall apply to all land and buildings other than accessory buildings, permitted in their respective residential zones. Each building site shall have a minimum twenty (20) foot wide vehicular access to a street with the exception of panhandle flag lot sites which shall have minimum twenty (20) foot wide vehicular access to a street.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  | | E-4 and R-1  ZONE1  17,000—20,000+  (Square Feet) | E-4 ZONE2  Less Than 8,000 to 16,999  (Square Feet) | R-1 ZONE  13,501—16,999  (Square Feet) | R-1 ZONE  Less Than 8,000 to 13,500  (Square Feet) |
| 1 All newly created E-4, Single-Family Residential lots shall be a minimum of 20,000 square feet in size.  2 Lots that are located within the E-4, Single-Family Residential Estates zone that are less than 8,000 to 16,999 square feet in size, shall comply with the appropriate R-1, Single-Family Residential zone development standards. | | | | | | |
| 1. | Density - Maximum dwelling units per net acre specified in General Plan Land Use Element. | | 1.75\* | 1.75 | 3.0 | 3.0 |
|  | \*The E-4 density of 1.75 dwelling units per acre shall apply to a subdivision of any parcel exceeding 50,000 square feet in area. | | - - - | - - - | - - - | - - - |
| 2. | Building site area minimum - net area in square feet. | | 17,000 | 16,999 or Less | 13,501 | 8,000 |
| 3. | Lot width, minimum, in feet. | | None unless otherwise specified by the district symbol on the official zoning map. | - - - | - - - | None unless otherwise specified by the district symbol on the official zoning map. |
|  |  | (For cul-de-sac or odd-shaped lots, see definition of "lot width".) | | | | |
| 4. | Lot depth minimum, in feet | | None unless otherwise specified by the district symbol on the official zoning map. | - - - | - - - | None unless otherwise specified by the district symbol on the official zoning map. |
| 5. | Front yard setback line, in feet. | | 30 | 30 | 25 | 20 |
| 6. | Side yard setback. | | 10% of lot width, but not less than 10 feet. No more than 20 feet required. | 10% of lot width, but not less than 10 feet. No more than 20 feet required. | 10% of lot width, but not less than 7 feet. No more than 15 feet required. | 5 |
| 7. | Side yard, setback line, street side, in feet. | | 10% of lot width, but not less than 10 feet. No more than 20 feet required. | 10% of lot width, but not less than 8 feet. No more than 17 feet required. | 10% of lot width, but not less than 7 feet. No more than 15 feet required. | 5 |
| 8. | Rear yard setback line, in feet | | 25 | 25 | 25 | 25 |
| 9. | Building site coverage, maximum. | | 32% for ground floor building area where 1 or more structures exceed 1-story or do not comply with the 1-story height requirements; provided that a conditional use permit pursuant to Article 23-19 may be granted for up to 38%. | 35% for ground floor building area where 1 or more structures exceed 1-story or do not comply with the 1-story height requirements; provided that a conditional use permit pursuant to Article 23-19 may be granted for up to 38%. | 33% for ground floor building area where 1 or more structures exceed 1-story or do not comply with the 1-story height requirements; provided that a conditional use permit pursuant to Article 23-19 may be granted for up to 40%. | 35% for ground floor building area where 1 or more structures exceed 1-story or do not comply with the 1-story height requirements; provided that a conditional use permit pursuant to Article 23-19 may be granted for up to 40%. |
|  |  | A total of 5% for any roof overhang that extends more than 3 feet from the exterior wall plane, and for porches, porte cocheres and other unenclosed structures with a solid roof covering. | | | | |
|  |  | | 32% for ground floor building area when all structure(s) are 1-story and comply with 1-story height requirements. | 38% for ground floor building area when all structure(s) are 1-story and comply with 1-story height requirements. | 40% for ground floor building area when all structure(s) are 1-story and comply with 1-story height requirements. | 40% for ground floor building area when all structure(s) are 1-story and comply with 1-story height requirements. |
| 10. | Building height, maximum, in feet. | 30 feet, with a 27-foot average for each roof plane above the first story, with the exception of minor architectural features (enhance entrances, turrets, gables, etc.). Exceeding the 30-foot maximum height may be allowed through the review and approval of an Alternative Development Standard for any newly constructed structure or additions. | | | | |
|  |  | 25 feet for roofs considered as first story with a 19-foot average for each roof plane or roofs considered as first story. | | | | |
| 11. | Size of structures | | Total square footage of all building areas located on a building site, with the exception of subterranean areas of said buildings located completely below grade on all sides, shall not exceed 38% of building site area; provided that a conditional use permit may be granted for a building or buildings exceeding this requirement pursuant to the provisions of Article 23-19. | Total square footage of all building areas located on a building site, with the exception of subterranean areas of said buildings located completely below grade on all sides, shall not exceed 38% of building site area; provided that a conditional use permit may be granted for a building or buildings exceeding this requirement pursuant to the provisions of Article 23-19. | Total square footage of all building areas located on a building site, with the exception of subterranean areas of said buildings located completely below grade on all sides, shall not exceed 38% of building site area; provided that a conditional use permit may be granted for a building or buildings exceeding this requirement pursuant to the provisions of Article 23-19. | Total square footage of all building areas located on a building site, with the exception of subterranean areas of said buildings located completely below grade on all sides, shall not exceed 38% of building site area; provided that a conditional use permit may be granted for a building or buildings exceeding this requirement pursuant to the provisions of Article 23-19. |
| 12. | Parking per unit | | Two (2). Five (5) or more; or with garage doors or 8 feet, 1 inch in height or more; provided a conditional use permit pursuant to the provisions of Article 23-19 is first obtained for any newly constructed structures or additions. | Two (2). Five (5) or more; or with garage doors or 8 feet, 1 inch in height or more; provided a conditional use permit pursuant to the provisions of Article 23-19 is first obtained for any newly constructed structures or additions. | Two (2). Four (4) or more; or with garage doors or 8 feet, 1 inch in height or more; provided a conditional use permit pursuant to the provisions of Article 23-19 is first obtained for any newly constructed structures or additions. | Two (2). Four (4) or more; or with garage doors or 8 feet, 1 inch in height or more; provided a conditional use permit pursuant to the provisions of Article 23-19 is first obtained for any newly constructed structures or additions. |

In computing the depth of a rear setback from any building where such setback opens on an alley, private street or public park, one-half of the width of such alley, street or park may be deemed to be a portion of the rear setback, except that under this provision, no rear setback shall be less than fifteen (15) feet.

(Ord. #88-375; Ord. #91-395, § 1; Ord. No. 2000-473, § 1; Ord. #2002-482, § 3; Ord. #2004-503, § 1; Ord. #2013-580, § 2; Ord. #2017-606, § 2; Ord. #2019-614, § 2; Ord. #2019-615, §§ 2, 3)

Sec. 23-6.8. Performance/Standards: Residential Zones.

a. *Pets in Residential Zones.* In all residential zones, the keeping of pets of a type readily classifiable as being customarily incidental to a permitted principal residential use is permitted when no commercial activity is involved in compliance with this section.

b. *Temporary Animal Husbandry or Agricultural Educational Project.* A temporary agricultural or animal husbandry activity or project conducted primarily for educational purposes or school credits shall be permitted in any residential zone, as well as those areas designated for residential, and use within a PC-Planned Community Zone, subject to the following conditions:

1. The issuance of a use permit approved by the Zoning Administrator as provided in Article 23-19.

2. Said use permit shall not be granted for a period of time exceeding two (2) years from the date of final determination of the application.

3. The fee for the use permit shall be as provided by ordinance or resolution of the City Council.

c. *Equine Animals.* The keeping of equine animals for recreational purposes only is hereby permitted provided no equine shall be permitted on a building site containing less than ten thousand (10,000) square feet of land area. The number of equine kept for noncommercial purposes is established as follows:

|  |  |
| --- | --- |
| Square Footage of Lot | Maximum Number  of Animals |
| 10,000—14,000 square feet | 2 |
| 15,000—24,000 square feet | 3 |
| 25,000—34,999 square feet | 4 |
| 35,000—44,999 square feet | 5 |
| Over 45,000 square feet | 6 |

Lot square footage relates to that which is owned or leased contiguous land in the aggregate. The maximum number of adult equine for any one (1) building site shall be six (6). The offspring of such animals shall be considered adults when eight (8) months old.

d. *Wild and Exotic Animals.* The keeping of wild, exotic or nondomestic animals shall be prohibited in all R Zones.

e. *Antennae and Towers in R Zones.* In all R Zones, antennae and support masts and/or towers may be installed, erected and maintained subject to the following regulations:

1. An antenna supported by a mast, the combined height of which when extended to its maximum height does not exceed twenty (20) feet above the highest part of the roof of the main buildings, provided that the antenna length, width, and height are not greater than fifteen (15) feet by ten (10) feet by five (5) feet, or

2. An antenna with a single vertical radiating element attached to a mast, the combined height of which extended to its maximum height is less than twenty-five (25) feet above the highest point of the roof of the main building with each ground plane radial not exceeding ten (10) feet in length located at the base of the vertical radiating element.

3. The location of any antenna and mast or tower on the property shall be restricted so that if the antenna and mast or tower were to fall down when extended to its maximum extension, it would fall completely within the property of the antenna owner and could not possibly fall on any other property not owned by the antenna owner or on any overhead power line.

f. *Lighting.* Lighting in all R Zones designed or maintained primarily for security or safety may be operated twenty-four (24) hours a day provided that the lighting is designed, constructed, mounted and maintained so that the direct rays of the light are directed to the interior of the lot and do not extend beyond the property lines of the lot and that the individual bulbs used for such security lighting shall not exceed sixty (60) watts.

g. *Satellite Receiving Antennas and Small Diameter Satellite Receiving Antennas.*

1. *Purposes.* Consistent with federal mandates specified in 47 C.F.R. 25.104, these regulations are designed to provide local regulation of satellite receiving antennas and small diameter satellite receiving antennas in order to protect the health, safety, and welfare of the people of the City by regulating the size, height, location, and amount of screening placed around satellite receiving antennas. These standards foster the City's safety and aesthetic interests without imposing unreasonable limitations on, or preventing the reception of, satellite-delivered radio and television signals, or imposing excessive costs on applicants seeking to install satellite receiving antennas or small diameter satellite receiving antennas.

2. *Findings:*

(a) The City Council of the City of Villa Park finds and declares that local regulation of satellite receiving antennas is necessary for the following reasons:

(i) Villa Park is a premier residential community. The aesthetic beauty of the residential areas in the City contributes to high property values and has helped to establish the City as a desirable community in which to live. Failure to maintain the aesthetic beauty of the community would lessen the desirability of the community and result in lower property values. The land use policies in the general plan and zoning ordinances of the City of Villa Park seek to enhance the aesthetic quality of the City's residential neighborhoods. These policies are to be implemented, in part, through the ordinances which, to the maximum extent permitted by law, regulate or restrict the placement of satellite receiving antennas and other visually obtrusive objects.

(ii) Satellite receiving antennas differ from other antennas in that their size, shape, weight and overall bulk tend to more dramatically disrupt the visual environment than other telecommunications equipment because: (1) they significantly impact the views of the surrounding community; (2) they create the impression of a reduction in open space; and (3) their appearance is inconsistent with the character and aesthetics of the residential neighborhoods in the City.

(iii) Satellite receiving antennas present a safety hazard to the community if placed in an improper location. Satellite receiving antennas placed at an elevated location are susceptible to strong winds and may be blown loose and cause injuries. Satellite receiving antennas, if improperly located, could reduce views from public streets and alleys or cause significant glare from reflected sunlight and create significant risks to motorists and pedestrians. Satellite receiving antennas, if located to be easily accessible and visible to children, may act as an attractive nuisance and tempt children to pay with sensitive electronic equipment.

(b) The City Council of the City of Villa Park finds and declares that local regulation of small diameter satellite receiving antennas is necessary for the following reasons:

(i) In addition to their unsightly appearance, small diameter satellite receiving antennas present a health and safety hazard to the community if placed in an improper location. Small diameter satellite receiving antennas placed at an elevated location are susceptible to strong winds and may be blown into public streets. Small diameter satellite receiving antennas, if improperly located, could reduce views of public streets and alleys or cause significant glare from reflected sunlight and create substantial risks to motorists and pedestrians. Small diameter satellite receiving antennas, if located to be easily accessible and visible to children, may act as an attractive nuisance.

3. *Required Criteria and Performance Standards for Satellite Receiving Antennas.* The following regulations shall apply to the establishment, installation, and operation of satellite receiving antennas in all R zones:

(a) No portion of a satellite receiving antenna or supporting structure shall be located in any front yard, street side yard, or extend beyond the property line. No satellite receiving antenna shall be located in any required setback area. A satellite receiving antenna shall be located in the rear one-half of the building site. However, if the rear of the building site borders a public street or park, the satellite receiving antenna shall be located in the middle one-third of the lot as measured from the front property line to the rear property line. Guy wires shall not be anchored within any front yard area but may be attached to a building on the property upon which the satellite receiving antenna is to be located.

(b) All satellite dish antennas, including support structures, and wiring shall be completely screened from the view of adjacent properties or from public/private roadways through the use of walls, fences and/or landscape materials.

(c) A satellite receiving antenna and supporting structures shall be located and designed to minimize the visual impact to surrounding properties and public streets. A satellite receiving antenna and supporting structures shall not be painted in reflective or bright colors, or in color(s) with high contrast to the surrounding area, and shall be treated so as not to reflect glare from sunlight.

(d) A satellite receiving antenna shall be adequately grounded for protection against a direct strike of lightning.

(e) No more than one satellite receiving antenna shall be permitted on a building site.

(f) No advertising material shall be allowed on any satellite receiving antenna.

(g) The maximum satellite receiving antenna diameter permitted shall be ten (10) feet.

(h) The maximum height of a satellite receiving antenna shall be fifteen (15) feet as measured from the highest point of the circumference or extension of the satellite receiving antenna to grade level.

(i) No satellite receiving antenna shall be mounted on the roof, top, or side of any building. All satellite receiving antennas shall be placed at ground level. "Ground level" shall mean that the bottom of the receiving antenna shall be no more than twelve (12) inches off the ground.

(j) All satellite receiving antennas shall be permanently mounted and no antennas may be installed on a portable or movable structure.

4. *Required Criteria and Performance Standards for Small Diameter Satellite Receiving Antennas.* Notwithstanding any provisions in this section to the contrary, small diameter satellite receiving antennas may be installed and operated in the additional following locations in all R zones if the following criteria and performance standards are met:

(a) Small diameter satellite receiving antennas may be roof-mounted. All roof-mounted small diameter satellite receiving antennas shall be mounted on the rear one-half of the building site or the rear one-half of the building that is farthest from the front property line. However, if the rear of a building site borders a public street or park, the small diameter satellite receiving antenna shall be located in the middle one-third of the lot as measured from the front property line to the rear property line. If mounted on a sloping roof, the small diameter satellite receiving antenna must be mounted on the side of the roof which faces the rear of the property, on the lower two-thirds of the roof plane to which it is attached, and below the roof ridge or peak. Roof-mounted small diameter satellite receiving antennas shall not exceed the height limit for the zone.

(b) Small diameter satellite receiving antennas may be mounted on the side of a structure. The antenna must face the rear or side yard and not intrude into any setback area.

Except as set forth in this section, all provisions in section 23-6.8, subsection 3., applicable to satellite receiving antennas shall apply to small diameter satellite receiving antennas.

5. *Permits.*

(a) Satellite receiving antennas or small diameter satellite receiving antennas are permitted in all R zones if the applicant obtains a building permit from the Building Official and the structure's design is pursuant to the Uniform Building Code. Satellite receiving antennas and small diameter satellite receiving antennas that do not conform to the development standards in section 23-6.8, subsections 3. or 4., respectively, require the applicant to additionally obtain a conditional use permit subject to the requirements of Villa Park Municipal Code section 23-19.

(b) Any person requesting a conditional use permit for the placement of a satellite receiving antenna or small diameter satellite receiving antenna shall submit an application in accordance with the requirements of section 23-19.5, and shall supplement the required application with the following:

(i) Detailed plans showing the proposed location of the antenna in relation to the main buildings or structures on the property, the property lines, the property setback lines, and the adjoining properties' buildings or structures;

(ii) A statement of the reasons why strict conformance with the development standards specified in section 23-6.8, subsection 3. or 4. will: (1) unreasonably limit, or prevent, reception of satellite signals; or (2) result in excessive expense in light of the cost of purchase and installation of the satellite receiving antenna or small diameter satellite receiving antenna.

(c) The City shall approve a conditional use permit for any satellite receiving antenna or small diameter satellite receiving antenna if strict compliance with the development standards in section 23-6.8, subsection 3. or 4., either: (1) will result in unreasonable limitations on, or prevent, reception of satellite delivered signals; or (2) the cost of strict compliance with the development standards would be excessive.

(d) In the event the applicant demonstrates that strict compliance would unreasonably restrict or prevent reception of signals, or result in excessive costs, the City shall issue the permit subject to any conditions necessary or appropriate to minimize the impact of the installation of the antenna, provided the conditions do not unreasonably prevent or limit reception of signals or result in excessive costs.

6. *Nonconforming Satellite Receiving Antennas.* Satellite receiving antennas and small diameter satellite receiving antennas in existence as of the effective date of this section shall be considered legal and nonconforming. Nonconforming satellite receiving antennas and small diameter satellite receiving antennas may be modified, relocated, or replaced only if they are brought into compliance with the provisions of this section, unless the modification, relocation, or replacement is necessary to permit reasonable use of the antenna and, in such an event, a conditional use permit is obtained prior to any such modification, relocation, or replacement. Any satellite receiving antenna or small diameter satellite receiving antenna erected in violation of any prior law, ordinance or regulation in effect at the time it was erected is a public nuisance subject to abatement under the procedures set forth in the Villa Park Municipal Code section 6-1.

7. *Separability.* If any section, subsection, sentence, clause, or phrase of this section is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the section.

h. *Landscaping.* Except for driveways, paved walkways and parking areas, all of the required front and street-side setback areas shall be landscaped. In single-family residential zones, driveways, paved walkways and parking areas shall not cover more than fifty (50) percent of the required front or street-side setback areas. Any pervious or semi-pervious surface which is part of or within a driveway or parking area shall not be considered to be landscaping. All required landscaping shall be permanently maintained in a neat and orderly condition. Residential properties and lots must provide landscaping with the following minimum standards:

1. Front yards shall be landscaped with softscape in conjunction with hardscape material, which includes lawn (grass or turf), and a combination of shrubs, trees, ground cover, plant materials, and mulch recognized within the American Standards for Nursery Stock, published by the American Association of Nurserymen.

(a) Natural lawn and turf may be substituted with a durable synthetic turf or artificial grass. Said grass and turf shall be installed in a professional manner that allows water to permeate and pass through the turf so as not to cause runoff onto adjacent properties or the public right-of-way, or cause flooding or pooling of water. Synthetic turf or artificial grass shall be maintained in a condition that resembles its natural counterpart.

(b) Hardscape shall refer to the permanent, man-made features of a landscape design made of stone, rock, pavers, or like material. Hardscape areas that do not permeate water, such as cement, or similar material, shall not be credited toward the fifty (50) percent landscape requirement.

2. Vacant as well as owner and renter occupied properties must be kept to these performance standards. Conditions must be weed-free, and free of dirt mounds, building materials, grass clippings, or other "fill" material.

3. Rear yards must be maintained free of weeds and overgrown plants and shrubs that may constitute a fire hazard, as determined by the Fire Marshal or any assigned designee. Installation of softscape, hardscape, or xeriscape is recommended for rear yards, but not required.

i. *Garage Doors.* Generally, street-facing garage doors occupy a major portion of a residence's ground floor façade and can have a significant impact on the overall appearance of the structure, as well as the streetscape in a neighborhood. In order to minimize the visual impacts of the garage doors, care should be taken in selecting a design and style that is well-integrated into the architectural motif of the residence.

Garage doors that are eight (8) feet, one (1) inch in height or more, are subject to a conditional use permit, pursuant to the provisions of Article 23-19, and the following minimum design guidelines:

1. Should visually relate to the overall architectural design of the residence.

2. Should be from the same paint color palette used for the residence.

3. Articulation and ornamentation is encouraged to provide visual interest for the residence and to the streetscape. This can be accomplished with color accents and architectural features and treatments, including, but not limited to pediments, moldings, overhangs and recessing of the doors.

4. Sectional, paneled garage doors are strongly encouraged.

(Ord. #85-343, § 2; Ord. #86-349, § 1; Ord. #91-394, § 3; Ord. #95-427, § 1; Ord. #96-439, § 2; Ord. #2002-482, §§ 4, 5; Ord. #2010-551, § 2; Ord. #2019-614, § 3)

Sec. 23-6.9. Signs: R Zones.

No sign or outdoor advertising structure shall be permitted in any R Zone except as provided in subsections 23-11.1 and 23-16.5.

Sec. 23-6.10. Accessory Uses: R Zones.

a. *Detached Private Garage, Carport and Accessory Building; Height.* A detached private garage, carport or accessory building shall not exceed one (1) story or a maximum of fifteen (15) feet in height.

b. *Detached Private Garages, Carports and Accessory Buildings; Construction and Placement.* The construction or placement of detached private garages, carports and accessory buildings on any building site used for residential purposes in E-4 and R-1 Zones shall conform to the regulations set forth below and in Schedule I, except as otherwise specified in this Chapter.

1. Detached private garages, carports and accessory buildings may be constructed or placed in any portion of a building site in an E-4 or R-1 Zone except within the following areas:

(a) Within the ultimate right-of-way, as defined, shown as existing on the Master Plan of Arterial Highways or within the ultimate right-of-way, as defined, or any local or private street;

(b) Within the setback area established by the provisions of this Chapter or by the designation of a building line on a precise plan of highway alignment or an official zoning map.

2. Application for Conditional Use Permit. A conditional use permit is required for any accessory building or structure in excess of fifteen (15) feet in height, necessary and customary or incidental to a principal use permitted in residential zones and not otherwise exempt by law, and shall be filed in accordance with the provisions of Article 23-19 of Chapter XXIII.

3. Administrative Approval. Any accessory building or structure fifteen (15) feet in height or less, necessary and customary or incidental to a principal use permitted in residential zones and not otherwise exempt by law, or covered by other provisions of this Chapter, may be approved by the City Manager after site plan review for conformity with the provisions of this Chapter.

4. Attachment to Primary Structure. If any detached private garage, carport or accessory building is subsequently sought to be attached to a primary structure, it must either conform to all regulations for the primary structure or approval must first be obtained by a conditional use permit, in accordance with Article 23-19 of Chapter XXIII.

(See Schedule I.)

(Ord. #99-459, § 1; Ord. #99-466, § 2; Ord. #2013-580, § 2)

Schedule I. Detached Private Garages, Carports and Accessory Buildings;   
Distances From Certain Lot Line

|  |  |  |  |
| --- | --- | --- | --- |
|  | Detached Private  Garages and Carports | Detached Accessory Buildings  7 Feet or Less in Height  or if Greater Than 7 Feet  in Height, Less Than 1  Square Foot in Area | Detached Accessory  Buildings Exceeding  7 Feet in Height  and 1 Square Foot or  More in Area |
| Front Lot Line | 50 feet | 30\* (E-4 Zone) | 50 feet |
|  |  | 20\* (R-1 Zone) |  |
| Exterior Side Lot Line | 10 (E-4 Zone) |  | 10 (E-4 Zone) |
|  | 5 (R-1 Zone) | \* | 5 (R-1 Zone) |
| Exterior Side Lot Line | 20 |  |  |
| (Vehicular access |  |  |  |
| from side street) |  |  |  |
| Exterior Rear Lot Line | 20 feet | \* | 20 feet |
| Interior Side Lot Line | 10 (E-4 Zone) |  | 10 (E-4 Zone) |
|  | 5 (R-1 Zone) |  | 5 (R-1 Zone) |
| Rear and Side Lot | 25 |  | 25 feet |
| Lines Adjacent to |  |  |  |
| Front Setback of |  |  |  |
| Abutting Lot | 25 |  |  |
| Interior Rear Lot Line | 10 (E-4 Zone) |  | 10 (E-4 Zone) |
|  | 5 (R-1 Zone) |  | 5 (R-1 Zone) |

\*In no event shall a detached accessory building be placed within a front yard, or side or rear yard abutting a street, easement or front yard of an adjoining lot when the yard does not have a screening fence or landscape screening to conceal it from view.

(See Samples in Appendix)

(Ord. #2004-498, § 1; Ord. #2004-501, § 1)

Sec. 23-6.11. Walls and Fences: R Zones.

Except as otherwise specified in this Code, the installation of walls and fences shall be in compliance with the following regulations:

a. The maximum height shall be three and one-half (3½) feet within any required front setback area, to a depth of twenty (20) feet as measured from the front property line; and six (6) feet within any required rear or side setback area. However, this regulation shall not apply to that portion of a building site where vehicular access rights have been dedicated to a public agency, or where a higher fence is required by law.

b. The maximum height shall be three and one-half (3½) feet within five (5) feet of the point of intersection of:

1. An ultimate street right-of-way line and the edge of a driveway or vehicular access way that is located within five (5) feet of an interior property line;

2. An ultimate street right-of-way line and an alley right-of-way line; and

3. The edge of a driveway or vehicular access way and an alley right-of-way line.

c. The construction of any fence or wall shall be subject to Site Plan Review and any applicable building permits.

d. The maximum height shall be three and one-half (3½) feet within the triangular area formed by two (2) points located on, and fifteen (15) feet distant from, the point of intersection of two (2) ultimate street right-of-way lines, as extended, and the point of intersection.

e. Rear yard and side yard fences and walls adjacent to Villa Park Road, Meats Avenue, Collins Avenue, and Santiago Boulevard, from Wanda Road to Meats Avenue, shall be permitted to a maximum of eight (8) feet in height. Wall modifications must be reviewed by the City Engineer and will be required to provide for appropriate sight distances at any access points.

f. The maximum height of any fence or wall constructed on or across a flat elevation shall be six (6) feet.

g. The maximum height of any fence or wall constructed on a sloped or terraced elevation shall measure a minimum as required by law and maximum of six (6) feet from the high side elevation and shall be unlimited on the low side elevation.

h. Any fence or wall constructed within five (5) feet of any ultimate street right-of-way shall be limited to a maximum of six (6) feet as measured from street side, unless otherwise excepted by this section.

i. The maximum height of any retaining wall shall be six (6) feet in height.

j. Any fence or wall constructed within three (3) feet of any other fence or wall shall constitute one (1) structure for the purposes of height measurement.

k. Exceptions and modifications may be permitted subject to the approval of a variance. In addition to the findings made in the process of review and approval of such variance, the following findings shall also be made:

1. The height and location of the wall or fence as proposed will not result in or create a traffic hazard.

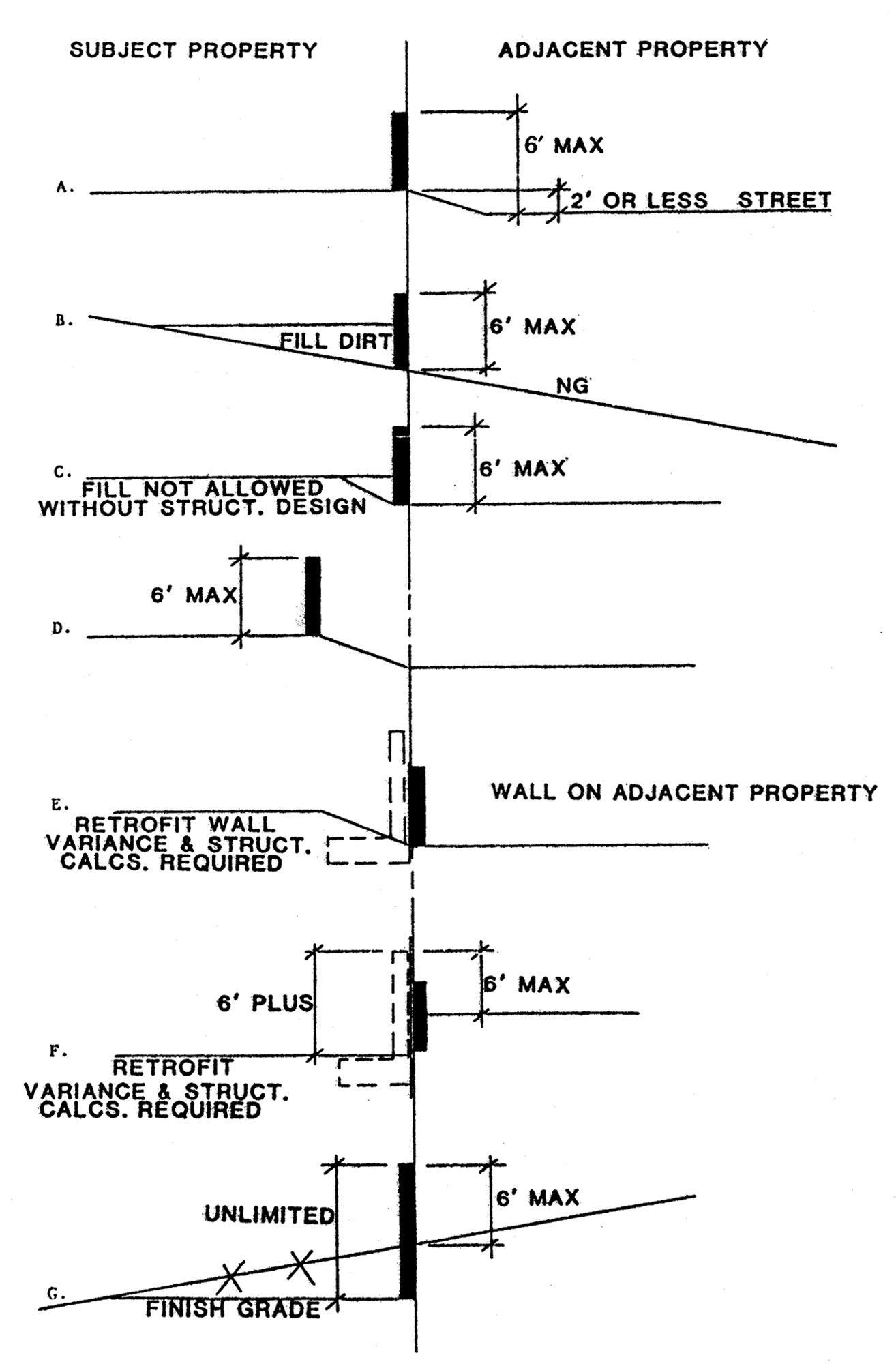
2. The location, size, design and other characteristics of the wall or fence will not create conditions or situations that may be objectionable or detrimental to the Zone in which it is located."

(Ord. #86-353, § 1; Ord. #96-438, § 1; Ord. #2003-494, § 1; Ord. #2009-545, § 1)

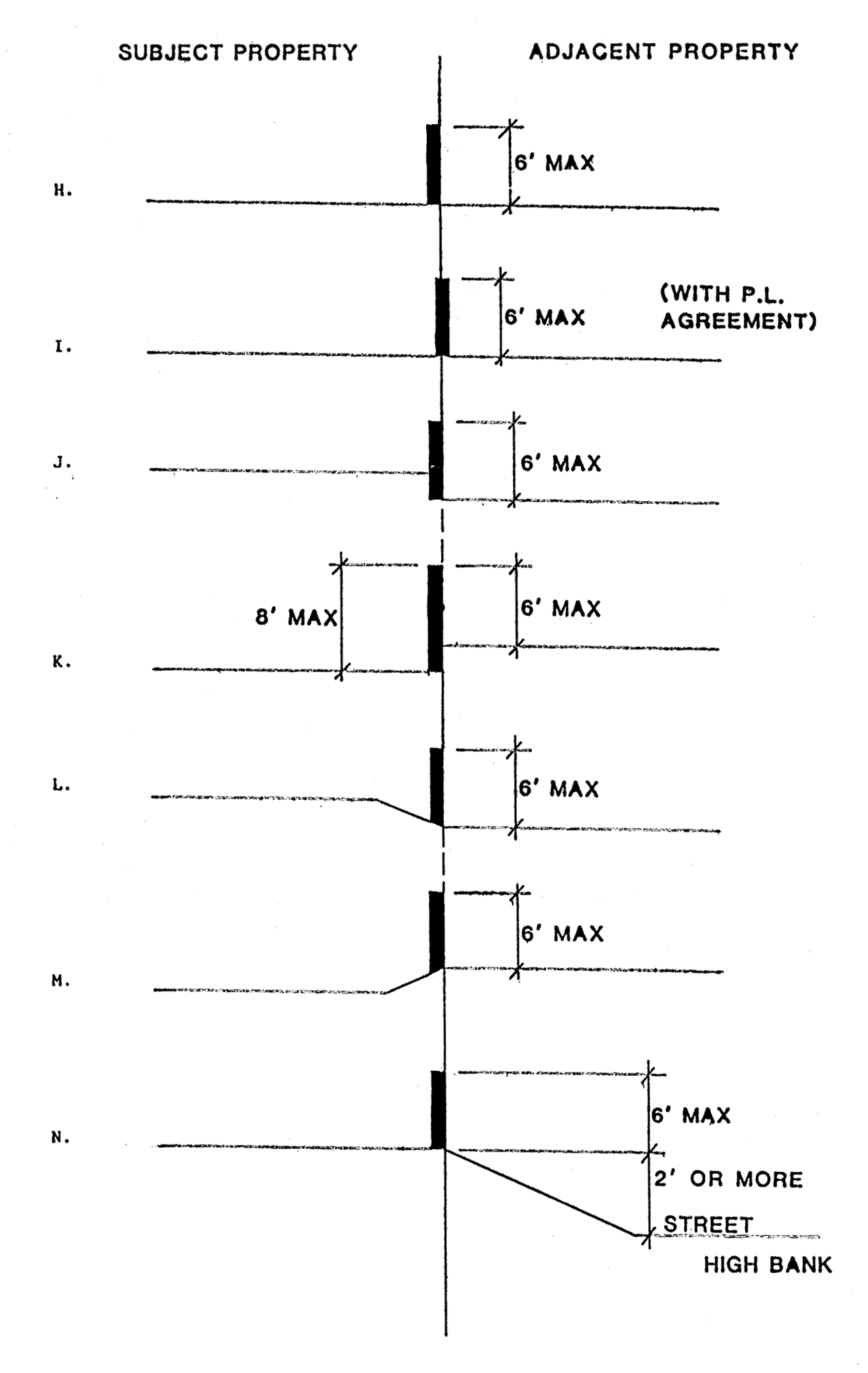
Note(s)—See illustration "Permitted Height of Fences and Walls" at end of this chapter.

Sec. 23-6.12. Swimming Pools.

Swimming pools may be located on any portion of a building site except within those areas where fences and walls are limited to a maximum height of three and one-half (3½) feet as specified in the zone regulations or in subsection 23-6.11 or within three (3) feet of any property line or ultimate right-of-way line.



Subject and Adjacent Property with Wall on Adjacent Property



Subject and Adjacent Property with P.L. Agreement

Sec. 23-6.13. Swimming Pool Enclosures.

a. *Enclosure Required.* Every person in possession of land within the City, either as owner, purchaser under contract, lessee, tenant, licensee, or otherwise, upon which is situated a swimming pool or other out-of-doors body of water designed, constructed and used for swimming, dipping or immersion by men, women, or children, having a depth in excess of eighteen (18) inches, shall maintain in good condition an enclosure or fence of any material or design, except as hereinafter provided substantially constructed, not lower than five (5) feet in height above the surface of the ground measured vertically from the outside grade and completely surrounding such a pool or body of water.

b. No opening between vertical members of a wood, metal picket, stake or other fence shall exceed five (5) inches between members. No opening between horizontal members of a wood, metal or other fence shall exceed two (2) inches between members. If a fence combining vertical and horizontal members meets either the vertical or horizontal requirements of this subsection, it shall be deemed to meet the requirements of this subsection.

EXCEPTION: Chain link and masonry type fences are excepted from the provisions of this subsection.

c. All enclosures and gates shall extend to within two (2) inches of firm soil or within four (4) inches of pavement.

d. *Gates, Doors and Latches.* All gates or doors opening through a swimming pool enclosure shall be equipped with a self-closing and self-latching device designed to keep such door or gate securely closed at all times when not in actual use. The unlocking or unlatching device shall be located not less than five (5) feet above grade or steps at the gate or door measured vertically outside the enclosed area. This shall include any passage door or gate opening from an accessory building, such as a garage.

EXCEPTIONS:

1. The unlocking or unlatching device may be located on the inside of the enclosure at less than the required five (5) feet in height, when not openable from the outside of the enclosure.

2. Self-closing and self-latching devices shall not be required on doors leading from a dwelling unit into the pool area.

3. Double gates installed across vehicular accessways shall be self-closing and shall be equipped with a latching device which may be manually operated. Such gates shall be securely closed at all times when not in actual use.

e. *Approval.* Plaster inspection or approval to fill the pool with water shall be withheld by the Building Official until there has been compliance with all fencing and other requirements of this subsection.

f. *Fence Maintenance.* Any pool enclosed by a fence which does not meet the requirements of this subsection shall be drained immediately and shall not be refilled until such time as the enclosure fence is brought into compliance with all provisions of this Code.

g. *Modification.* Following written requires by the owner, the Building Official may modify or eliminate the foregoing requirements where, in the judgment of the Building Official, local conditions afford protection equivalent to that outlined in this subsection. The Building Official may require that evidence or proof in the form of affidavits or otherwise be submitted to substantiate or justify such requests and may apply reasonable conditions to insure ultimate compliance with this Code in the event of a change of conditions.

Sec. 23-6.14. Building Site Requirements.

No building permit or certificate of use and occupancy shall be issued for a building or use of land until the Building Official has verified by official records that the parcel of land upon which such building or use of land is to be established is a building site.

a. Any parcel of land that was established as a building site either by subdivision, division of land, deed of conveyance, contract of sale, or in any other legal manner; and which met all of the applicable requirements of all of the City and County ordinances in effect at the time of recordation in the office of the County Recorder shall be considered a building site.

b. The creation of any building site shall conform to the following requirements:

1. The building site shall be of sufficient size to meet the minimum area requirements for the zoning district in which it is located.

2. Except as otherwise provided, those easements whose primary purpose is to provide vehicular or pedestrian access to other property shall not be included in calculating the width or area of the building site, and when a building site is divided by such an easement only the resultant portions which meet the applicable zone regulations shall be used as building sites.

3. That portion of a panhandle or flag building site that is used for access purposes and is under forty (40) feet in width shall not be used in calculating the area of the building site.

4. The building site shall have continuous abutment upon a street, road, highway or waterway of not less than twenty (20) feet and right of vehicular access for a continuous width of not less than twenty (20) feet upon a street or alley having a right-of-way width of not less than twenty (20) feet.

Sec. 23-6.15. Establishing Zone-Symbols for Building Site Requirements.

In any zone the minimum required building site area or width may be different from that set forth in the regulations of the zone if so specified on the zoning map. Such specifications shall be shown in the following manner:

a. A number preceding and connected by a hyphen with the zone symbol shall designate the minimum required building site width in feet.

Example: 100-E4

b. A number following and connected by a hyphen with the zone symbol shall designate the minimum required building site area. Where the number is greater than one hundred (100), it shall indicate the net area in square feet; where the number is less than one hundred (100) it shall indicate the net area in net acres.

Example: E4-20,000

Sec. 23-6.16. Building Site Reduced by Acquisition for Public Use.

a. If a portion of building site containing no structures is acquired for public use by condemnation, dedication, purchase or any other means, the status of the remainder of the building site shall be determined as follows:

1. If such remainder has eighty (80) percent or more of the required area and width, such remainder shall constitute a building site.

2. If such remainder has less than eighty (80) percent but not less than fifty (50) percent of the required area or width, or both, but otherwise meets all of the requirements for a building site, the public agency concerned may file an application for a variance, whether or not the acquisition has been completed, to establish if such remainder shall constitute a building site.

3. A property owner may apply for a variance at any time to establish the status of such remainder.

b. If a portion of a building site improved with structures is acquired for public use by condemnation, dedication, purchase or any other means, the status of the remainder of the building site shall be determined as follows:

1. If such remainder has eighty (80) percent or more of the required area and width, such remainder shall constitute a building site.

2. If such remainder has less than eighty (80) percent but not less than fifty (50) percent of the required area or width, or both, but otherwise meets all of the requirements for a building site, the public agency concerned may file an application for a variance, whether or not the acquisition has been completed, to establish if such remainder shall constitute a building site.

3. If such remainder has yards or distances between buildings which have eighty (80) percent or more of the depth or width, or both, required for each of such spaces, they shall constitute the required spaces.

4. If such remainder has yards or distances between buildings which have less than eighty (80) percent but not less than sixty (60) percent of depth or width, or both, required for each of such spaces, the public agency concerned may file an application for a variance, whether or not the acquisition has been completed, to establish if such spaces shall constitute the required spaces.

Furthermore, the public agency concerned may file an application for a variance, whether or not the acquisition has been completed, to establish yards or distances, between buildings associated with structures to be relocated, consisting of less than eighty (80) percent but in no event less than sixty (60) percent of the depth or width, or both, required for such space.

5. A property owner may apply for a variance at any time to establish the status of such remainders.

c. Any conflict with the requirements of the zoning regulations other than those inherent in preceding paragraphs a. and b., caused by acquisition for public use by condemnation, dedication, purchase or any other means, shall be subject to approval by the Zoning Administrator as provided for in Article 23-20.

Sec. 23-6.17. Determination of Building Site Width.

In any residential zone when a minimum building site width is required, such required width shall be determined by measuring the distance between the sidelines of the building site along a line parallel to a straight line joining the foremost points of the side property lines, and twenty (20) feet, at the closest point, from the ultimate street right-of-way line. However, in the case of a panhandle building site or a building site not abutting a street or alley and gaining access by an easement, the width of the building site shall be determined by measuring the distance across the building site along a straight line in any direction.

In any zone other than a residential zone, when a minimum building site width is required such required width shall be determined by measuring the distance between the points of intersection of the side property lines with the ultimate front street right-of-way.

Sec. 23-6.18. Building Line Regulations for Main Buildings and Structures.

Main buildings and structures may be constructed or placed on any portion of a building site except within the following areas:

a. Within the ultimate right-of-way, as defined, shown as existing on the Master Plan of Arterial Highways or within the ultimate right-of-way, as defined, of any local or private street;

b. Within the setback area established by the designation of a building line on a precise plan of highway alignment or an official zoning map;

c. Within the setback area designated by the applicable zoning regulations, unless otherwise specified.

Sec. 23-6.19. Building Line Designation.

The building line shall be as designated on the official zoning map. If no such line is specified, the building line shall be at the designated distance from the ultimate right-of-way line, as defined, or the property line; as designated by the applicable zone regulations.

Sec. 23-6.20. Exceptions to Building Lines Cited in Zone Property Development Standards.

The building line may be located closer to the property line or the ultimate street right-of-way line than the setback distance required by the Zone Development Standards, when otherwise specified by, and in compliance with, the regulations provided in subsections 23-6.21 and 23-6.22.

Sec. 23-6.21. Building Line on Panhandle Building Site.

In the case of a panhandle building site, the building lines shall be set back a minimum of ten (10) feet from any property line, except as otherwise specified in this section.

Sec. 23-6.22. Building Line on Shallow Building Site.

When a building site has an average depth of one hundred (100) feet or less but more than seventy-five (75) feet, any required front and rear building line setbacks need not be more than twenty (20%) percent of such average depth; and when a building site has an average depth of seventy-five (75) feet or less, any required front and rear building line setbacks need not be more than fifteen (15%) percent of such average depth, but in no event shall any required front or rear building line setback be less than five (5) feet.

Sec. 23-6.23. Building Line on Narrow Building Site.

When a building site has an average width of less than fifty (50) feet, any required building line setback from the interior side property lines need not be more than ten (10%) percent of such average width but in no event less than three (3) feet.

Sec. 23-6.24. Balconies, Decks, Porches, Terraces, Exterior Steps and Exterior Stairways.

Balconies, decks, porches, terraces, exterior steps in excess of thirty (30) inches in height, and exterior stairways, unroofed and unenclosed, may project not more than three (3) feet into any required side setback area or the distance required between buildings on the same building site and not more than five (5) feet into a required front or rear setback area, but in no event shall such balconies, decks, porches, terraces, exterior steps, or exterior stairways be closer than two (2) feet to any side property line or three (3) feet to any front or rear property line of a building site, when projecting into any required setback area.

Sec. 23-6.25. Eaves, Cornices, Canopies and Cantilevered Roofs.

For main structures, eaves, cornices, canopies or cantilevered roofs may project a maximum of forty (40%) percent into any required side setback and twenty-five (25%) percent into any required front or rear setback, and forty (40%) percent into the space required between buildings on the same building site, but in no event shall such eaves, cornices, canopies, or cantilevered roofs be closer than two (2) feet to any front, side, or rear line of the building site when projecting into a required setback area.

For accessory structures, eaves, cornices, canopies or cantilevered roofs may project a maximum of thirty (30") inches into any required setback area. Accessory structures shall include, but not be limited to, detached private garages, carports, pool houses, sheds, and other similar accessory buildings.

(Ord. #2002-482, § 6)

Sec. 23-6.26. Chimneys, Fireplaces, Wing Walls and Other Minor Architectural Features.

Masonry chimneys, fireplaces, wing walls and other minor architectural features, may project into any required front, side or rear setback area a maximum of two (2) feet.

Sec. 23-6.27. Additional Story.

Where the average slope of a lot on the downhill side of a street is greater than one foot fall in four (4) feet of horizontal distance from the established street elevation at the front property line, an additional story will be permitted on the downhill side of any permitted main building which is on the downhill side of the street upon which the building site fronts.

Sec. 23-6.28. Minor Structures and Mechanical Equipment.

Minor Structures and Mechanical Equipment such as trash enclosures, storage sheds or playhouses less than one hundred twenty (120) square feet, doghouses, play equipment, fountains, enclosed water heaters, barbecues, garden walls, air conditioners, pool filters, vents and other similar structures and mechanical equipment greater than six (6) inches in height shall not be located in any required setback in a residential area except as provided below:

a. Minor structures and equipment less than six (6) inches in height, as measured from adjacent finished grade, may be located in any required front, side or rear setback;

b. Minor structures and mechanical equipment exceeding six (6) inches in height, as measured from adjacent finished grade, may be permitted within any interior side or rear setback area by the Planning Director, through a site plan review application; provided, that no significant adverse impacts will result and provided that:

1. Noise levels from mechanical equipment do not exceed fifty (50) dBA as measured from the closest property line;

2. No part of any minor structure or mechanical equipment, exceeds six (6) feet in height as measured from adjacent finished grade;

3. If located within a rear setback area that abuts a public or private street, the minor structure or mechanical equipment is not visible from the public or private street;

4. No part of any mechanical equipment, including but not limited to pool/spa equipment and air conditioning/heating equipment, extends within three (3) feet of the property line; and

5. No part of any minor structure extends within three (3) feet of the property line. However, minor structures (not mechanical equipment) may be allowed to abut the side or rear property line; provided, that the minor structure:

(a) Is placed adjacent to an existing solid wall;

(b) Does not exceed the maximum height of the adjacent solid wall, up to a maximum of six (6) feet;

(c) Is less than one hundred twenty (120) square feet in size; and

(d) Is located a minimum of three (3) feet from an adjacent structure.

(Ord. #2002-482, § 7)

Sec. 23-6.29. Standards for Solar Energy Systems; Approval Process.

a. *Purpose.*

1. The purpose of this section is to create an expedited, streamlined permitting process for small residential rooftop solar energy systems, in accordance with California Civil Code Section 714 and California Government Code Section 65850.5.

2. It is also the purpose of this section to promote and encourage the use of solar energy systems and to limit obstacles to their use, in accordance with the standards adopted by the City pursuant to this section and State law, while allowing the City to protect the public health and safety.

3. It is hereby declared that in any instance where the provisions of this section conflict with any applicable State law or regulation, such State law or regulation shall govern.

b. *Definitions.* The following definitions shall govern the meaning of words and phrases used herein:

1. "*Checklist of Requirements for Small Residential Rooftop Solar Energy Systems*" or "*Checklist*" means the rules, regulations, guidelines, and checklist adopted by resolution of the City Council that sets forth implementing and additional requirements for small residential rooftop solar energy systems consistent with Section 65850.5 of the Government Code.

2. "*Director*" means the director of the City's planning department, or successor City official or department responsible for the implementation of this section, as may be identified from time to time, in the Checklist of Requirements for Small Residential Rooftop Solar Energy Systems.

3. "*Electronic Submittal*" means the utilization of one or more of the following:

a. E-mail,

b. The internet,

c. Facsimile.

4. "*Small Residential Rooftop Solar Energy System*" means all of the following:

a. A solar energy system that is no larger than ten (10) kilowatts alternating current nameplate rating or thirty (30) kilowatts thermal.

b. A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City and paragraph (iii) of subdivision (c) of Section 714 of the Civil Code, as such section or subdivision may be amended, renumbered, or re-designated from time to time.

c. A solar energy system that is installed on a single or duplex family dwelling.

d. A solar panel or module array that does not exceed the maximum legal building height.

5. "*Solar Energy System*" has the same meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code, as such section or subdivision may be amended, renumbered, or re-designated from time to time.

6. "*Specific, Adverse Impact*" means a significant, quantifiable, direct, unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

c. *Applicability.* This section applies to the permitting of all small residential rooftop solar energy systems, as defined herein, in the City. Small residential rooftop solar energy systems legally established or permitted prior to the effective date of this section are not subject to the requirements stated herein, unless physical modifications or alterations are undertaken that materially change the size, type, or components of a small rooftop energy system in such a way as to require new permitting. Routine operation and maintenance or like-kind replacements shall not require a permit.

d. *Development Standards.* In addition to the Checklist of Requirements for Small Residential Rooftop Solar Energy Systems, the following standards shall apply to each small residential rooftop solar energy system:

1. Solar energy systems shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities, consistent with Section 65850.5 of the Government Code.

2. Solar energy systems for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

3. The City Manager may from time to time revise the Checklist of Requirements for Small Residential Rooftop Solar Energy Systems as long as any revisions are consistent with the most recently adopted resolution of the City Council adopting the Checklist, and are consistent with Section 65850.5 of the Government Code.

4. The Checklist of Requirements for Small Residential Rooftop Solar Energy Systems shall be made available to the public during regular business hours at the Office of the City Clerk and by posting the Checklist on the City's web site.

d. *Application; Documents and Requirements.* All documents required for the submission of an expedited solar energy system application shall be made available on the City's website. The applicant may submit the permit application and associated documentation to the City's planning department in person or by electronic submittal, together with any required permit processing and inspection fees. For electronic submittal, the City shall accept an electronic signature on all forms, applications, and other documentation in lieu of a wet signature by an applicant to the extent permitted by law and to the extent such electronic submittal complies with the requirements set forth in this section and the Checklist of Requirements for Small Residential Rooftop Solar Energy Systems.

e. *Review.* Review of the application to install a solar energy system shall be limited to an expedited administrative, nondiscretionary review by the planning department of whether the application meets all health and safety requirements of local, state, and federal law. The requirements of local law shall be limited to those standards and regulations necessary to ensure that the solar energy system will not have a specific, adverse impact upon the public health or safety. If the Planning Director makes a finding based on substantial evidence, that a solar energy system could have a specific, adverse impact upon the public health and safety, the City may require the applicant to apply for a conditional use permit or other applicable license or permit.

f. *Approval Requirements.*

1. An application that satisfies the requirements of this section and the Checklist of Requirements for Small Residential Rooftop Solar Energy Systems shall be deemed complete upon confirmation by the Planning Director that the application and supporting documents are complete and meet the requirements of this section and the Checklist. Upon the Director's determination that an application is complete, the City's planning department shall approve the application and, in conjunction with the Building Department, issue all required permits or authorizations. Upon receipt of an incomplete application, the director shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.

2. If the City denies an application for a use permit to install a solar energy system, the City shall make written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall include the basis for the rejection of potential feasible alternatives of preventing the adverse impact.

3. The decision of the Planning Director pursuant to paragraphs (1) and (2) above may be appealed to the City Council of this Code. As set by City Council resolution, a fee shall be paid and an application for appeal shall be made within ten (10) calendar days of the determination by the Planning Director.

g. *Inspections.* For a small residential rooftop solar energy system eligible for expedited review, only one (1) inspection shall be required, which shall be done in a timely manner and may include a consolidated inspection, except that a separate fire safety inspection may be performed if the City does not have an agreement with a local fire authority to conduct a fire safety inspection on behalf of the fire authority. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized, however the subsequent inspection need not conform to the requirements of this section.

h. *Approval by Association Not Required.* The City shall not condition approval for any solar energy system permit on the approval of a solar energy system by an association, as that term is defined in Section 4080 of the Civil Code.

(Ord. #2015-594, Exh. A)

## ARTICLE 23-7. COMMERCIAL ZONES

Sec. 23-7.1. Purpose of C-N Zone.

This zone is intended for the Towne Centre, shopping center which provides a balance of retail, entertainment, service and office facilities for the convenience and providing the needs of the community. Only those facilities are permitted that are compatible with permitted uses in the surrounding neighborhood and which offer convenience goods and services needed to supply the immediate community.

(Ord. #2013-576, § 2; Ord. #2013-579, § 2)

Sec. 23-7.2. Uses Permitted in the C-N Zone.

The following uses are deemed compatible with a residential environment and shall be permitted at locations indicated on the official zoning map:

a. *General Office and Related Uses (not to exceed more than forty (40) percent without the approval of a Conditional Use Permit).*

1. Administrative and executive offices;

2. Artist and photographic studios, not including the sale of equipment or supplies;

3. Clerical and professional offices;

4. Financial institutions (not exceeding current fourteen (14) percent allocation) including 24-hour ATM facilities;

5. Medical, dental and related health services for humans and animals;

6. Public utility service offices;

7. City Hall;

8. Library;

9. Maintenance yard;

10. Insurance and real estate agents and brokers;

11. Travel agencies.

b. *General Commercial Uses.*

1. Antique shops;

2. Apparel and shoe stores (including sales, repair, alterations and resale);

3. Art galleries, photographic studios, sales, equipment, dealers and supply stores;

4. Home goods (including appliance, hardware, home repair, lighting, flooring, furniture repair and retail stores);

5. Auto supply stores (no repair on site);

6. Food and beverage establishments (including bakeries, candy, ice cream, coffee, tea, yogurt, confectioneries, etc.);

7. Hair, nails, day spas, skin care establishments and related retail stores;

8. Banks and banking facilities under fifty (50) square feet;

9. Bicycle shops, nonmotorized;

10. Florist, book, gifts, and stationery stores;

11. Commercial recreational uses, under three thousand (3,000) square feet;

12. Fitness studios and schools under three thousand (3,000) square feet (including dance, gym, yoga, karate, etc.);

13. Department, sporting goods and toy stores;

14. Drug stores and prescription pharmacies;

15. Food stores and supermarkets;

16. Hobby shops (coin, stamp, crafts, sewing, etc.), including related material and equipment sales and repair and instructors;

17. Jewelry stores and repair (including gold and precious metal sales and resale establishments);

18. Laundry and dry cleaning facilities, not including any self-service;

19. Liquor stores;

20. Home services including sales (lock smith, plumber, electrician, swimming pool supply and maintenance, etc.);

21. Nurseries and garden supply stores, provided all equipment and supplies shall be kept within an enclosed area;

22. Office supply and equipment, sales, service, repair and services (including mailboxes, copying, blueprinted);

23. Post office branch;

24. Electronic sales and repair (television, telephone, computer, etc.);

25. Restaurants, not including the sale of alcoholic beverages;

26. Tutoring and learning centers, over three thousand (3,000) square feet;

27. Certain temporary uses cited in Article 23-11.

(Ord. #2013-576, § 2; Ord. #2013-579, § 2)

Sec. 23-7.3. Uses Permitted in the C-N Zone Subject to a Conditional Use Permit.

1. General office (uses listed in Section 23-7.1.a) in excess of forty (40) percent;

2. New banks and banking facilities over fifty (50) square feet;

3. Businesses selling/serving alcohol;

4. Businesses operating before 6:00 a.m., after 11:00 p.m. or offering 24-hour service;

5. Businesses offering drive-thru services;

6. Communication and telecommunication facility and/or equipment buildings, antennas, satellite dishes over three (3) feet in diameter;

7. Convenience stores (7/11, AM/PM, etc.);

8. Commercial recreational uses, over three thousand (3,000) square feet;

9. Fitness studios and schools (including dance, gym, yoga, karate, etc.) over three thousand (3,000) square feet;

10. Electric distribution substations;

11. Live entertainment, live music or amplified music;

12. Massage establishments or businesses with massage services;

13. Automobile service stations;

14. Public utility booster stations;

15. Theater;

16. Any general commercial use not specifically listed in Section 23-7.2.

(Ord. #2004-500, § 1; Ord. #2011-559, § 2; Ord. #2013-576, § 2; Ord. #2013-579, § 2)

Sec. 23-7.4. Uses Prohibited in the C-N Zone.

The following uses shall not be permitted because of their tendency to create substances, conditions, or situations that may be dangerous, objectionable, or incompatible with the permitted uses in this district or in adjoining areas;

1. Adult uses or businesses selling adult oriented materials (videos, accessories, etc.);

2. Automobile car washes;

3. Automobile repair garages, fender and body repair and paint shops;

4. Automobile wrecking, junk and salvage yards;

5. Bail bonds;

6. Beverage bottling plants;

7. Cleaning, dyeing and laundry plants;

8. Check cashing businesses;

9. Pawn shops;

10. Thrift shops;

11. Used passenger vehicle sales;

12. Rental and sales agencies for agricultural, industrial, and construction equipment;

13. Rental and sales agencies for trailers, boats, trucks;

14. Residential uses, including hotels and motels;

15. Tire retreading;

16. Warehouses, contractors' storage yards, and work and fabricating area;

17. Welding shops;

18. Wholesale bakeries;

19. Smoke shops (tobacco, hookah and similar uses and/or accessories);

20. All uses not permitted by subsections 23-7.2 or 23-7.3.

(Ord. #2013-576, § 2)

Sec. 23-7.5. Property Development Standards: C-N Zone.

The following property development standards shall apply to all land and buildings permitted in the C-N Zone. The intention is to have a uniform and cohesive commercial center inclusive of connecting pedestrian paths, landscape areas, accessible parking and compatible buildings.

a. *General Requirements.* The following requirements are minimums unless otherwise stated:

|  |  |
| --- | --- |
|  | C-N |
| 1. Lot area, square feet or acres | None unless otherwise specified by the zone symbol on the official zoning map. |
| 2. Lot width, in feet | None unless otherwise specified by the zone symbol on the official zoning map. |
| 3. Lot depth, in feet | None unless otherwise specified by the zone symbol on the official zoning map |
| 4. Exterior front, side and rear yard setbacks adjacent to a street, alley or abutting a residential zone | 20 feet |
| [5.] Interior front, side and rear setbacks | 0, subject to site plan review and approval |
| 6. Building height, in feet, maximum | 25 feet maximum or up to 35 feet in height with the review and approval of an Alternative Development Standard. |
| 7.  Off-street parking | See Article 23-15 |

(Ord. #2013-576, § 2)

Sec. 23-7.6. Performance Standards: C-N Zone.

a. In the C-N Zone, the required front and street side yards shall be landscaped to a depth of not less than ten (10) feet. Remaining front and street side yard areas or setbacks may be used for required off-street parking. Said landscaping shall consist predominantly of plant materials except for necessary walks and drives.

1. An additional amount, equal to at least five (5) percent of the total area of the parcel, is required and a minimum of twenty-five (25) percent of such landscaping shall be located in the area devoted to parking.

2. Any landscaped area shall be separated from an adjacent vehicular area by a wall or curb at least six (6) inches higher than the adjacent vehicular area.

3. Landscaping along all streets and boundaries shall be limited to a height of not more than three and one-half (3½) feet within twenty (20) feet of the point of intersection of:

(a) A vehicular access way or driveway and a street;

(b) A vehicular access way or driveway and a sidewalk; and

(c) Two (2) or more vehicular access ways, driveways or streets.

b. All required landscaping shall be permanently maintained in a neat and orderly condition. This shall include proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary and the regular watering of all plantings.

c. Except security lighting, which shall be permitted during closed hours, no exterior lighting shall be permitted between the hours of 11:00 p.m. and 6:00 a.m. All lighting shall be designed and located so as to confine direct rays to the premises.

d. The noise level emanating from any commercial use or operation shall not exceed five (5) decibels (as defined in the Occupational Safety and Health Act of 1970) above the ambient level of the area.

e. All mechanical equipment, including heating and air conditioning units, and trash receptacle areas, shall be completely screened from surrounding properties by use of a wall or fence or shall be enclosed within a building. Structural and design plans for any required screening under the provisions of this section shall be approved by the City Engineer and Building Official.

f. All loading and unloading operations shall be performed on the site, and loading platforms and areas shall be screened by a landscape or architectural feature.

g. All storage of cartons, containers and trash shall be shielded from view within a building or within an area enclosed by a wall not less than six (6) feet in height. If unroofed, no such area shall be located within forty (40) feet of any district zoned for residential use.

h. There shall be no outdoor display or storage of merchandise or equipment, except for temporary outdoor merchandise displays as specified in Section 23-7.6(h), 1—3 below. Except for temporary outdoor merchandise displays as specified herein, all uses permitted in this zone and their resulting products shall be contained entirely within a completely enclosed structure, except for off-street parking and loading areas and outdoor dining areas.

1. Temporary outdoor merchandise displays shall be permitted with the approval of the property owner.

2. Outdoor display of merchandise pursuant to this section shall be limited to one (1) display table per retail storefront, with such table having no more than twenty-four (24) square feet of display space, and with the table skirted and covered in a professional manner; or one (1) rolling garment rack of no more than eight (8) feet in length.

3. No temporary outdoor merchandise displays may obstruct the flow of pedestrian traffic or create a hazard to public health and safety.

i. Business hours shall be limited to the hours between 6:00 a.m. and 11:00 p.m.

j. An opaque screen shall be installed and maintained along all streets and district boundaries. Where the zone boundary does not abut a public street, the screen, except as otherwise provided, shall have a total height of not less than six (6) feet nor more than seven (7) feet. Where the district boundary abuts a public street, the screen shall have a height of not less than three (3) feet nor more than three and one-half (3½) feet, and it shall be located adjacent to the inside edge of the required boundary landscaping not less than ten (10) feet from the ultimate right-of-way line. Where there is a difference in elevation on opposite sides of the screen, the height shall be measured from the highest elevation. A screen shall consist of one (1) or any combination of the following types:

1. Walls. A wall shall consist of concrete, stone, brick, tile or similar type of solid masonry material a minimum of four (4) inches thick.

2. Berms. A berm shall be not more than twenty (20) feet in width at the base. It shall be constructed of earthen materials and it shall be landscaped.

3. Fences, solid. A solid fence shall be constructed of wood, masonry or other materials a minimum nominal thickness of two (2) inches and it shall form an opaque screen.

4. Fences, open. An open weave or mesh type fence shall be combined with plant materials to form an opaque screen.

5. Planting. Plant materials, when used as a screen, shall consist of compact evergreen plants. They shall be of a kind, or used in such a manner, so as to provide screening, having a minimum width of two (2) feet, within eighteen (18) months after initial installation. Except as provided in paragraph i., 6 below, plant materials shall not be limited to a maximum height.

6. Intersections. Screening along all streets and boundaries shall have a height of not less than three (3) nor more than three and one-half (3½) feet within twenty (20) feet of the point of intersection of:

(a) A vehicular access way or driveway and a street;

(b) A vehicular access way or driveway and a sidewalk; and

(c) Two (2) or more vehicular access ways, driveways or streets.

7. The Zoning Administrator shall require that either 1, 2 or 3 above shall be installed if, after eighteen (18) months after installation, plant materials have not formed an opaque screen, or if an opaque screen is not maintained.

8. No signs or sign supports except those specified in the off-street parking regulations shall be permitted on any required screening.

9. Notwithstanding the requirements listed above, where the finished elevation of the property is lower at the boundary line, or within five (5) feet inside the boundary line, than an abutting property elevation, such change in elevation may be used in lieu of, or in combination with, additional screening to satisfy the screening requirements for this district.

k. Satellite Dish Antennas. In the C-N Zone, a satellite receiving antenna may be installed with the approval of Site Plan Review.

(Ord. #85-343, § 3; Ord. #2011-559, § 3; Ord. #2013-576, § 2)

Sec. 23-7.7. Signs: C-N Zone.

No sign or outdoor advertising structure shall be permitted in any C-N Zone except as provided in Article 23-16. Further, no signs except those specified in the off-street parking regulations shall be permitted within any required boundary landscaping.

Sec. 23-7.8. Purpose: C-P Zone.

This zone is intended for commercial professional office facilities that allow for providing professional services and commercial office space for the community and those serving the City, as well as multi-family residential and mixed-use development.

(Ord. #2013-579, § 2; Ord. #2016-604, § 5)

Sec. 23-7.9. Uses Permitted: C-P Zone.

The following uses are deemed compatible with a residential environment and shall be permitted at locations indicated on the official zoning map:

a. *General Office and Related Uses:*

1. Administrative and executive offices;

2. Artist and photographic studios, not including the sale of equipment or supplies;

3. Clerical and professional offices;

4. Banks and banking facilities under fifty (50) square feet;

5. Insurance and real estate agents and brokers;

6. Medical, dental and related health services for humans, including laboratories and clinics; only the sale of articles clearly incidental to the services provided shall be permitted;

7. Travel agencies;

8. Veterinarians' offices;

9. Art galleries, photographic studios, sales, equipment, dealers and supply stores;

10. Tutoring centers (less than three thousand (3,000) square feet).

b. *General Commercial Uses* (not to exceed more than forty (40) percent without the approval of a conditional use permit):

1. Antique shops;

2. Apparel and shoe stores (including sales, repair, alterations and resale);

3. Home goods (including appliance, hardware, home repair, lighting, flooring, furniture repair and retail stores);

4. Auto supply stores (no repair on site);

5. Food and beverage establishments (including bakeries, candy, ice cream, coffee, tea, yogurt, confectioneries, etc.);

6. Hair, nails, day spas, skin care establishments and related retail stores;

7. Bicycle shops, nonmotorized;

8. Florist, book, gifts, and stationery stores;

9. Commercial recreational uses, under three thousand (3,000) square feet;

10. Fitness studios and schools (including dance, gym, yoga, karate, etc.) under three thousand (3,000) square feet;

11. Department, sporting goods and toy stores;

12. Drug stores and prescription pharmacies;

13. Food stores and supermarkets;

14. Hobby shops (coin, stamp, crafts, sewing, etc.), including related material and equipment sales and repair and instructors;

15. Jewelry stores and repair (including gold and precious metal sales and resale establishments);

16. Laundry and dry cleaning facilities, not including any self-service;

17. Liquor stores;

18. Home services including sales (lock smith, plumber, electrician, swimming pool supply and maintenance, etc.);

19. Nurseries and garden supply stores, provided all equipment and supplies shall be kept within an enclosed area;

20. Office supply and equipment, sales, service, repair and services (including mailboxes, copying, blueprinted);

21. Post office branch;

22. Electronic sales and repair (television, telephone, computer, etc.);

23. Restaurants, not including the sale of alcoholic beverages;

24. Certain temporary uses cited in Article 23-11.

c. Multi-family housing or mixed-use developments.

(Ord. #2013-579, § 2; Ord. #2016-604, § 5)

Sec. 23-7.10. Uses Permitted in the C-P, Subject to a Conditional Use Permit.

1. General commercial (uses listed in section 23-7.9) in excess of forty (40) percent for the total Towne Centre building area;

2. New banks and banking facilities over fifty (50) square feet;

3. Businesses selling/serving alcohol;

4. Businesses operating before 6:00 a.m., after 11:00 p.m. or offering 24-hour service;

5. Businesses offering drive-thru services;

6. Communication and telecommunication facility and/or equipment buildings, antennas, satellite dishes over three (3) feet in diameter;

7. Convenience stores (7/11, AM/PM, etc.);

8. Commercial recreational uses, over three thousand (3,000) square feet;

9. Fitness studios and schools (including dance, gym, yoga, karate, etc.) over three thousand (3,000) square feet;

10. Electric distribution substations;

11. Live entertainment, live music or amplified music;

12. Massage establishments or businesses with massage services;

13. Public utility booster stations;

14. Theater.

(Ord. #2013-579, § 2; Ord. #2016-604, § 5)

Sec. 23-7.11. Uses Prohibited: C-P Zone.

The following uses shall not be permitted because of their tendency to create substances, conditions, or situations that may be dangerous, objectionable, or incompatible with the permitted uses in this district or in adjoining areas:

a. All uses not permitted by subsection 23-7.9 or 23-7.10.

(Ord. #2013-579, § 2; Ord. #2016-604, § 5)

Sec. 23-7.12. Property Development Standards: C-P Zone.

The following property development standards shall apply to all land and buildings permitted in the C-P Zone.

a. *General Requirements.* The following requirements are minimums unless otherwise stated:

|  |  |
| --- | --- |
| Development Standards | C-P |
| 1. Lot area, square feet or acres | None unless otherwise specified by the zone symbol on the official zoning map. |
| 2. Lot width, in feet | " |
| 3. Lot depth, in feet | " |
| 4. Exterior front, side or rear yards adjacent to a street, alley or abutting another zone | 20 |
| 5. Interior lot lines, front, side and rear yard setbacks, in feet | 0 |
| 6. Building height, in feet, maximum | 25 feet with an ability to allow 35 feet maximum with the review and approval of an Alternative Development Standard. |
| 7. Off-street parking | See Article 23-15. |

b. *Development Standards for Multi-Family Residential and Mixed-Use Developments:*

1. Minimum density: Twenty (20) dwelling units per acre.

2. Maximum density: Twenty-four (24) dwelling units per acre.

3. Minimum residential floor area for mixed-use projects: Fifty (50) percent.

(Ord. #2013-579, § 2; Ord. #2016-604, § 5)

Sec. 23-7.13. Performance Standards: C-P Zone.

a. In the C-P Zone, the required front and street side yards shall be landscaped to a depth of not less than ten (10) feet. Remaining front and street side yard areas or setbacks may be used for required off-street parking. Said landscaping shall consist predominantly of plant materials except for necessary walks and drives.

1. An additional amount, equal to at least five (5) percent of the total area of the parcel, is required and a minimum of twenty-five (25) percent of such landscaping shall be located in the area devoted to parking.

2. Any landscaped area shall be separated from an adjacent vehicular area by a wall or curb at least six (6) inches higher than the adjacent vehicular area.

3. Landscaping along all streets and boundaries shall be limited to a height of not more than three and one-half (3½) feet within twenty (20) feet of the point of intersection of:

(a) A vehicular accessway or driveway and a street;

(b) A vehicular accessway or driveway and a sidewalk; and

(c) Two (2) or more vehicular accessways, driveways or streets.

b. All required landscaping shall be permanently maintained in a neat and orderly condition. This shall include proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary and the regular watering of all plantings.

c. Except security lighting, which shall be permitted during closed hours, no exterior lighting shall be permitted between the hours of 11:00 p.m. and 6:00 a.m. All lighting shall be designed and located so as to confine direct rays to the premises.

d. The noise level emanating from any commercial use or operation shall not exceed five (5) decibels (as defined in the Occupational Safety and Health Act of 1970) above the ambient level of the area.

e. All mechanical equipment, including heating and air conditioning units, and trash receptacle areas, shall be completely screened from surrounding properties by use of a wall or fence or shall be enclosed within a building. Structural and design plans for any required screening under the provisions of this section shall be approved by the City Engineer and Building Official.

f. All loading and unloading operations shall be performed on the site, and loading platforms and areas shall be screened by a landscape or architectural feature.

g. All storage of cartons, containers and trash shall be shielded from view within a building or within an area enclosed by a wall not less than six (6) feet in height. If unroofed, no such area shall be located within forty (40) feet of any district zoned for residential use. Each property shall have a minimum of one (1) trash enclosure. The number, size, location and design shall be such to minimize the total number of enclosures in the C-P Zone. Additional trash enclosures are subject to the review and approval of the City Manager.

h. There shall be no outdoor display or storage of merchandise or equipment, except for temporary outdoor merchandise displays as specified in Section 23-7.6(h), 1—3 below. Except for temporary outdoor merchandise displays as specified herein, all uses permitted in this zone and their resulting products shall be contained entirely within a completely enclosed structure, except for off-street parking and loading areas and outdoor dining areas.

1. Temporary outdoor merchandise displays shall be permitted with the approval of the property owner.

2. Outdoor display of merchandise pursuant to this section shall be limited to one (1) display table per retail storefront, with such table having no more than twenty-four (24) square feet of display space, and with the table skirted and covered in a professional manner; or one (1) rolling garment rack of no more than eight (8) feet in length.

3. No temporary outdoor merchandise displays may obstruct the flow of pedestrian traffic or create a hazard to public health and safety.

i. Business hours shall be limited to the hours between 6:00 a.m. and 11:00 p.m.

j. An opaque screen shall be installed and maintained along all streets and district boundaries. Where the zone boundary does not abut a public street, the screen, except as otherwise provided, shall have a total height of not less than six (6) feet nor more than seven (7) feet. Where the district boundary abuts a public street, the screen shall have a height of not less than three (3) feet nor more than three and one-half (3½) feet, and it shall be located adjacent to the inside edge of the required boundary landscaping not less than ten (10) feet from the ultimate right-of-way line. Where there is a difference in elevation on opposite sides of the screen, the height shall be measured from the highest elevation. A screen shall consist of one (1) or any combination of the following types:

1. Walls. A wall shall consist of concrete, stone, brick, tile or similar type of solid masonry material a minimum of four (4) inches thick.

2. Berms. A berm shall be not more than twenty (20) feet in width at the base. It shall be constructed of earthen materials and it shall be landscaped.

3. Fences, solid. A solid fence shall be constructed of wood, masonry or other materials a minimum nominal thickness of two (2) inches and it shall form an opaque screen.

4. Fences, open. An open weave or mesh type fence shall be combined with plant materials to form an opaque screen.

5. Planting. Plant materials, when used as a screen, shall consist of compact evergreen plants. They shall be of a kind, or used in such a manner, so as to provide screening, having a minimum width of two (2) feet, within eighteen (18) months after initial installation. Except as provided in paragraph i.6 below, plant materials shall not be limited to a maximum height.

6. Intersections. Screening along all streets and boundaries shall have a height of not less than three (3) feet nor more than three and one-half (3½) feet within twenty (20) feet of the point of intersection of:

(a) A vehicular accessway or driveway and a street;

(b) A vehicular accessway or driveway and a sidewalk; and

(c) Two (2) or more vehicular accessways, driveways or streets.

7. The Zoning Administrator shall require that either [paragraph] 1, 2 or 3 above shall be installed if, after eighteen (18) months after installation, plant materials have not formed an opaque screen, or if an opaque screen is not maintained.

8. No signs or sign supports except those specified in the off-street parking regulations shall be permitted on any required screening.

9. Notwithstanding the requirements listed above, where the finished elevation of the property is lower at the boundary line, or within five (5) feet inside the boundary line, than an abutting property elevation, such change in elevation may be used in lieu of, or in combination with, additional screening to satisfy the screening requirements for this district.

(Ord. #2013-579, § 2)

Sec. 23-7.14. Signs: C-P Zone.

No sign or outdoor advertising structure shall be permitted in any C-P Zone except as provided in Article 23-16. Further, no signs except those specified in the off-street parking regulations shall be permitted within any required boundary landscaping.

(Ord. #2013-579, § 2)

## ARTICLE 23-8. PLANNED COMMUNITY ZONE

Sec. 23-8.1. Purposes.

In addition to the objectives outlined in subsection 23-1.1, the Planned Community Zone is designed to achieve the following purposes:

a. To provide for the classification and development of parcels of land as coordinated, innovative projects on irregularly-shaped parcels.

b. To allow diversification of land uses as they relate to each other in a physical and environmental arrangement, while insuring substantial compliance with the provisions of this chapter.

c. To provide for a zone encompassing various types of land uses, such as single-family residential developments, multiple housing developments, professional and administrative office areas, commercial centers, or any public or semi-public use or combination of uses through the adoption of a development plan and text materials which set forth land use relationships and development standards.

Sec. 23-8.2. Uses Permitted.

a. Those uses designated on the development plan for the particular PC Zone as approved by the City Council.

b. The continuation of all land uses which existed in the zone at the time of adoption of the development plan. Existing land uses shall either be incorporated as part of the development plan or shall terminate in accordance with a specific abatement schedule submitted and approved as a part of the development plan.

c. Public utility installations.

d. Accessory uses and structures incidental to permitted uses.

Sec. 23-8.3. General Requirements.

The following requirements shall apply to all PC zoned areas:

a. An application for a zone change to permit the establishment of a PC Zone shall include and be accompanied by a development plan for the entire property.

b. An application for a zone change to establish a PC Zone must be for a parcel or parcels of land which is under the control of the person or corporation proposing the development.

c. The area contained within a proposed PC Zone shall not be less than five (5) acres.

d. A conditional use permit may be required for any land use designation on the development plan.

e. If ambiguity exists as to the specific dimensions or extent of any designated area on the development plan, the specific boundaries shall be determined by the City Council from the filing of a legal description and map of the parcel in question in conjunction with the filing of a conditional use permit, tentative subdivision map, or construction permits.

f. Overall densities of development within a PC Zone shall not exceed those designated on the General Plan.

Sec. 23-8.4. Pre-Application Procedure.

Prior to submitting an application for a PC Zone, the applicant should hold preliminary consultations with the City Manager and other City officials to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys, and other data. Such preliminary consultations should be relative to a preliminary development plan and other material which expresses the relationship between the various land uses and the development concepts to be employed.

(Ord. #82-323, § 23)

Sec. 23-8.5. Development Plan.

The development plan of a proposed PC Zone should consist of maps, plans, reports, schedules, development standards and schematic drawings and such other documents deemed necessary by the City Manager in accordance with the following requirements:

a. The development plan shall be submitted in a form approved by the City Manager.

b. The development of sections or areas within the PC Zone may be permitted subject to one of the following or any combination thereof:

1. The uses and requirements of any of the zone classifications established by this chapter.

2. The uses and standards of development set forth in the development plan as approved by the City Council.

3. Approval of a conditional use permit by the City Council prior to development.

4. Approval of a tentative subdivision map.

c. The development plan and any amendment thereto shall include the following:

1. The type and character of buildings or structures and the number of dwelling units per gross acre proposed for each residential area.

2. A statement of the standards of population density for the various proposed residential land uses.

3. The general location of recreational areas, and other public and semi-public sites and the approximate area of each.

4. The general location of all major, primary, secondary and local collector streets coordinated with the Circulation Element of the Villa Park General Plan.

d. The development plan and any amendment thereto shall be accompanied by the following:

1. A general land use map setting forth the proposed uses of all sections or areas within the subject property and the approximate acreage of each.

2. An accompanying text setting forth the land use regulations which constitute the standards of development designed to govern those sections or areas specified in the development plan. Such standards shall contain definitions and information concerning requirements for building site coverage, building heights, building setbacks, off-street parking, vehicular access, signing, lighting, storage, screening and landscaping, and any other information which the City Manager shall require to insure substantial compliance with the purpose of the PC Zone.

3. A topographic map and conceptual grading plan of the property.

4. A preliminary report and overall plan describing proposed provisions for storm drainage, sewage disposal, water supply and such other public improvements and utilities as the City Engineer may require.

5. A written statement of standards as they relate to the allocation of land within the development plan to all proposed types of land uses.

(Ord. # 82-323, § 23)

Sec. 23-8.6. Adoption of Development Plan.

The development plan and supporting statements and documents submitted with the application for a planned community shall be approved and adopted by the City Council and includes in the ordinance establishing the PC Zone.

Sec. 23-8.7. Amendments to the Development Plan.

All development within the PC Zone shall comply substantially with the development plan as approved and adopted by the City Council.

Any amendments to the development plan shall be accomplished in the same manner as an amendment to the zoning regulations as prescribed in Article 23-19.

Sec. 23-8.8. Application for Conditional Use Permit.

A conditional use permit required for the development of any portion or area of a PC Zone shall be filed in accordance with Article 23-19 and shall include the following documents and materials:

a. A map showing the location of the project in relation to the approved development plan.

b. A boundary survey map of the property; a tentative subdivision map may be substituted if the applicant proposes to subdivide the property.

c. A topographic map of the property and the preliminary proposed finished grade shown in contour intervals of not to exceed two (2) feet.

d. Location, grades, widths and types of improvements proposed for all streets; and general plan of water, sewer and drainage systems.

e. Preliminary concept or design drawings indicating proposed walkways, driveways or service areas.

f. Location and number of residential units, if any, for each proposed structure.

g. Location and design of automobile parking areas.

h. Preliminary landscaping concept plan.

i. Location of public or quasi-public buildings or areas, including, but not limited to, schools, recreation facilities, parking and service areas, if any.

j. Preliminary elevations of structures and a written description indicating architectural theme or type of development.

k. Irrevocable offers to dedicate those areas shown on the plan as public property.

l. The proposed means for assuring continuing existence, maintenance, and operation of the various common elements and facilities. If a community association or similar governing structure is to be established, a copy of the covenants, conditions, and restrictions shall be made a part of the record. If the City Council deems it necessary, upon advice of the City Attorney, the City of Villa Park shall be a party to such covenants and conditions and restrictions in order to ensure their continuance and enforceability.

m. Such other information as may be required by the City Manager to permit a complete analysis and appraisal of the planned development.

(Ord. #82-323, § 23)

## ARTICLE 23-9. AC "ARCHITECTURAL SUPERVISION" REGULATIONS AND PROCEDURE

a. Architectural supervision may be provided in connection with any zone. When such architectural supervision is established, it shall be so designated upon the official zoning map by the letters AC preceding the zone symbol, thus for example, AC-CN.

Before such architectural supervision may be established in connection with any zone, a petition therefor signed by the owners of record of not less than sixty-six (66) percent of the land area involved shall be filed with the City Council.

b. When such architectural supervision is established in connection with a district, the following regulations, in addition to the regulations specified for such district, shall apply:

1. Except as otherwise provided in this section, before any building or structure which is designed or intended to be used for any purpose is erected, constructed, altered or moved within any zone in which architectural supervision is in effect, an application furnishing descriptive material or plans showing the exterior elevations of the proposed building or structure, the types of exterior materials and colors to be used and signs to be displayed, shall be submitted to the Zoning Administrator. The Zoning Administrator shall approve, conditionally approve or disapprove said application.

2. If any property owner other than the applicant is dissatisfied with the action of the Zoning Administrator, he may appeal to the City Council at its next regular meeting following the date of the Zoning Administrator's action. If the applicant is dissatisfied with the action of the Zoning Administrator he may appeal to the City Council within thirty (30) days after such action. Said Council having heard such appeal may sustain, modify or set aside all or any part of said action and authorize the erection, construction, alteration or moving of the building structure in question under such provisions as the Council deems necessary.

3. The Zoning Administrator shall prescribe the form, content and manner of submitting any application required by this section and the procedure for disposition of its action thereon.

4. In any business zone wherein the regulations of this section are established, such regulations shall not apply to any existing or proposed single-family or two-family dwelling nor to any building or use which is accessory thereto.

## ARTICLE 23-10. OS OPEN SPACE ZONE

Sec. 23-10.1. Purpose and Intent.

The purpose of the OS Zone is to protect and preserve open space for the preservation of natural resources, for the preservation and managed production of resources for outdoor recreation and education, and for public health and safety. It is also the intent of this zone to provide open space in the City by limiting development in areas which are so located, so configured, or possessed of physical features that they may provide valuable and functional open space for the purposes of helping to shape urban form, to provide local or buffer greenbelts, and/or to serve as linkages between open space areas. It is intended that any building or structure permitted in this zone shall be subordinate to and in furtherance of use of the land for open space as defined in the City of Villa Park General Plan and the State Planning and Zoning Law.

Sec. 23-10.2. Uses Permitted.

Any of the following principal uses are permitted with the exception of those specific uses that are listed as prohibited uses in subsection 23-10.4.

a. Parks, playgrounds, and outdoor recreation facilities, noncommercial.

b. Riding and hiking trails, noncommercial.

c. Local and buffer greenbelts.

d. Water recharge, percolation, and watershed areas.

e. Wildlife preserves and sanctuaries.

f. Public utility easements for overhead or underground transmission lines.

g. Archaeological sites.

h. Screening walls, fences, identification signs and vegetation, public improvements.

i. Historical preserves.

j. Parking facilities, public.

Nothing in this subsection shall be so construed as to permit any of the uses prohibited in subsection 23-10.4.

Sec. 23-10.3. Uses Permitted Subject to a Conditional Use Permit.

In addition to the requirements of Article 23-19, a conditional use permit may be approved for any of the following uses only when the City Council finds that the proposed use is consistent with the purpose and intent of the Open Space Zone and the Open Space and Conservation Elements of the General Plan:

a. The reclamation for open space purposes of mines, quarries and pits resulting from the commercial extraction of rock, sand, gravel, earth, clay and similar materials.

b. Structures incidental and accessory to permitted uses such as gazebos, information centers, restrooms, concession stands, maintenance buildings, greenhouses, stables and clubhouses.

c. Schools, public.

d. Electric distribution substations.

e. Microwave repeater stations.

f. Public utility booster stations.

g. Sanitary landfills.

Sec. 23-10.4. Uses Prohibited.

The following uses shall not be permitted because of their tendency to create conditions, situations or precedents that may be inconsistent with the purpose and intent of the OS Zone.

a. Outdoor advertising structures and signs not permitted by Article 23-16.

b. All uses not permitted by Subsections 23-10.2 and 23-10.3.

Sec. 23-10.5. Site Development Standards.

a. *General Requirements.* The following requirements are minimum unless otherwise stated.

|  |  |
| --- | --- |
|  | *OS* |
| 1. Building site-net area. | 1 acre |
| 2. Site width. | No minimum requirement |
| 3. Building height. | No maximum except per conditional use permit |
| 4. Setbacks in feet (all buildings, structures and off-street parking). | 50 feet from any public or private street |
| 5. Off-street parking. | Per Article 23-15 |
| 6. Screening (Natural wood, Metal, fiber or non-opaque fences). | Consistent with zone purpose and intent |
| 7. Screening (masonry or solid wood fences). | 20 feet from ultimate street right-of-way line shielded from view from street by landscaping, berm or other topographic feature 50 feet from ultimate street right-of-way line |

## ARTICLE 23-11. PERMITTED TEMPORARY USES AND STRUCTURES

The temporary uses listed in this section shall be permitted in any zone, except as otherwise provided in this section.

Sec. 23-11.1. Temporary Real Estate Offices and Signs Within Subdivisions.

a. Model homes and their garages within a recorded tract may be used as offices solely for the first sale of homes within a recorded tract on the following conditions:

1. A temporary certificate of use and occupancy shall first be obtained from the Building Official for the use of model homes and their garages for offices solely for such first sales;

2. The use shall be discontinued at the end of one year from the date of issuance of the certificate of use and occupancy;

3. The Building Official may for good cause, after receipt of a certified report from the developer on the number of dwellings sold, extend the time limit for not to exceed two (2) successive periods of six (6) months each.

b. A temporary office not exceeding four hundred (400) square feet in area may be established within a recorded tract and used solely for the first sale of lots within the same recorded tract; on the following conditions:

1. A temporary certificate of use and occupancy shall first be obtained from the Building Department for the use of the structure for an office solely for such first sales;

2. The use shall be discontinued and such office removed from the premises at the end of one year from the date of issuance of the certificate of use and occupancy;

3. The Building Official may for good cause, after receipt of a certified report from the subdivider on the number of lots sold, extend the time limit for not to exceed two (2) successive periods of six (6) months each.

c. Signs in connection with the uses permitted in paragraphs a. and b. above, shall be permitted within a recorded tract on the following conditions:

1. The sign copy shall be limited to matters relating to the recorded tract within which the signs are located;

2. Such signs shall have a time limit of existence concurrent with the use of the permitted temporary offices within the recorded tract.

Sec. 23-11.2. Temporary Use or Mobilehome Residence or Mobile Construction Office During Construction.

In any zone the temporary use of a mobilehome residence or mobile construction office shall be permitted during the construction of a main building upon the following conditions:

a. That such temporary use shall be on the same site and concurrent with the construction of a main building;

b. That a sewage disposal system meeting the requirements of the Building Official be installed;

c. That such use shall be permitted for a period of time not to exceed one (1) year, or until the issuance of a certificate of use and occupancy for the main building, whichever occurs first. Before the issuance of a certificate of use and occupancy the Building Official, for good cause, may extend the time limit twice. Any extension may be for a period not to exceed six (6) months;

d. That guarantees necessary to ensure the discontinuance in use or removal of any such mobilehome or mobile construction office shall be provided by the landowner. The nature and extent of such guarantees are to be determined by the Building Official.

Sec. 23-11.3. Continued Use of an Existing Building During Construction of a New Building on the Same Building Site.

The use of an existing, lawfully established building may continue during the construction or relocation of another building on the same building site if the Building Official finds that:

a. The continued use of the existing building does not constitute a hazard to the health, safety or welfare of any individual or of the general public; and

b. Prior to occupancy of a new building, the existing building will be brought into conformity with any additional regulation rendered applicable by the placement of any new building on the site. Conformity will be accomplished by removal, reconstruction, relocation, conversion, change of use or any combination thereof.

The Building Official may require the landowner to provide a guarantee to ensure full compliance with the zoning chapter upon completion of the new building or sooner if, in the Building Official's opinion, work pertaining to the completion of all facilities required by law is not being diligently pursued.

Sec. 23-11.4. Regulation of Boutiques, Yard Sales and Garage Sales.[[2]](#footnote-2)

The purposes of this section are to control the nature and frequency of yard sales, garage sales and boutique sales in residential zones in order to maintain the noncommercial character of such areas and to prevent excessive traffic congestion and noise in such areas.

(Ord. #88-378, § 3)

Sec. 23-11.5. Boutiques, Yard Sales and Garage Sales—Location, Frequency and Time.[[3]](#footnote-3)

In any residential zone, on any one lot, a yard sale, garage sale or boutique sale may be conducted on not more than three (3) consecutive days in any six-month period. Sales shall be conducted only between the hours of 9:00 a.m. and 6:00 p.m.

(Ord. #88-378, § 4)

Sec. 23-11.6. Real Estate Signs.

In any district, one (1) real estate sign shall be permitted on any building site, unlighted and unilluminated, and not to exceed six (6) square feet in area.

Sec. 23-11.7. Temporary Use of Christmas Tree Sales Facility.

A temporary Christmas tree sales facility shall be permitted in the CN Zone and in commercial areas of the PC Zone subject to the following requirements:

1. The subject facility shall not be established more than fourteen (14) days prior to the particular Christmas holiday involved.

2. The proposed location shall be submitted to and approved by the Building Official prior to establishment of the facility.

3. The applicant shall secure an electrical permit from the Building Official if the facility is to be energized.

4. The facility shall be removed and the premises upon which it was located shall be cleared of all debris and restored to the condition they were in prior to the establishment of the facility, within fourteen (14) days after the particular Christmas holiday involved.

Sec. 23-11.8. Self-Contained Portable Restrooms.

In any zone the temporary use of a self-contained portable restroom shall be required upon the following conditions:

a. The temporary use of self-contained portable toilets for construction, rehabilitation projects, special events, interruption of sewer service for emergencies or planned upgrades/repairs, and at sites or facilities that are not permanently inhabited and do not have installed working toilet facilities.

b. The self-contained portable toilets must be in good working condition without any broken surfaces or leaks. Doors must be in good working condition and must be able to be securely latched while in use. The toilet(s) must be monitored and/or permanently secured or serviced by a licensed disposal contractor.

c. Toilet(s) shall be located on the site so as to be free from obstruction from, nor present an obstruction to, existing structures or driveways. The toilet(s) shall be located in such a manner as to not be potentially impacted by site conditions such as slopes, ditches, or prevailing winds. Toilet(s) located in residential zones shall be located at a minimum of thirty (30) feet behind a fence to provide the maximum practical screening from roads and adjacent properties as the site allows.

d. It is the property owner/event operator's responsibility to ensure that toilet(s) are not used in a dangerous or inappropriate manner, especially by children. This may be accomplished by monitoring or securing the toilet(s) during periods of inactivity, such as nighttime and weekend hours, or by other effective means as appropriate.

e. Any self-contained portable toilet currently either located on a site or in a manner which is in violation of the provisions of this chapter shall be relocated or removed immediately.

f. Violation of this chapter shall be declared to constitute a public nuisance and shall be processed in accordance with the applicable sections of Chapter VI, Section 6-1.7 of the Villa Park Municipal Code (VPMC), including the summary abatement procedures of VPMC Section 6-1.11.

(Ord. #2020-620, § 1)

## ARTICLE 23-13. CERTIFICATES OF USE AND OCCUPANCY

Sec. 23-13.1. Intent.

No vacant land in any zone established under the provisions of this chapter shall hereafter be occupied or used, and no building hereafter erected, structurally altered or moved in any such zone shall be occupied or used until a certificate of use and occupancy shall have been issued therefor by the Building Official.

Sec. 23-13.2. Application for Certificate of Use and Occupancy.

a. Application for a certificate of use and occupancy for a new building or for an existing building which has been altered or moved shall be made at the same time as the application for a building permit. Said certificate shall be issued within three (3) days after a written request for the same shall have been made to the Building Official after the erection, alteration or moving of such building or part thereof shall have been completed in conformity with the provisions of this chapter. Pending the issuance of such a certificate, a temporary certificate of use and occupancy may be issued by the Building Official for a period of not exceeding six (6) months during the completion of alterations or during partial occupancy or use of a building pending its completion. Such temporary certificate shall not be construed as in any way altering the respective rights, duties, or obligations of the owners or of the City relating to the use or occupancy of the premises or any other matter covered by this chapter and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants.

b. Written application for a certificate of use and occupancy for the use of vacant land or for a change in the character of the use of land, as herein provided, shall be made before any such land shall be so occupied or used. Such a certificate of use and occupancy shall be issued within three (3) days after the application therefor has been made, provided such use is in conformity with the provisions of this Code.

c. Every certificate of use and occupancy shall state that the building or proposed use of building or land complies with all the provisions of law and of this Code. A record of all certificates of use and occupancy shall be kept on file in the office of the Building Official and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected. No fee shall be charged for a certificate of use and occupancy.

d. No permit for excavation for any building shall be issued before application has been made for a certificate of use and occupancy.

Sec. 23-13.3. Completion of Building.

Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit has heretofore been issued and upon which actual construction has begun.

Actual construction is hereby defined to be the actual placing of construction materials in their permanent position fastened in a permanent manner, except that where a basement is being excavated such excavating shall be deemed to be actual construction or where demolishing or removal of an existing building or structure has been begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, providing in all cases that actual construction work be diligently carried on until the completion of the building or structure involved.

Sec. 23-13.4. Enforcement, Legal Procedure, Penalties.

a. It shall be the duty of the Building Official to enforce the provisions of this chapter pertaining to the use of land, the erection, construction, reconstruction, moving, conversion, alteration or addition to any building or structure.

b. It shall be the duty of the Health Department of Orange County to enforce the provisions of this chapter pertaining to the maintenance and use of property structures and buildings so far as matters of heath are concerned.

c. It shall be the duty of the Sheriff of Orange County and of all officers of said County otherwise charged with the enforcement of the law to enforce this chapter and all the provisions of the same.

d. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating any provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to the penalty stated in Chapter I, Article 1-5.

e. Any building or structure set up, erected, built, moved or maintained and/or use of property contrary to the provisions of this chapter and/or any conditions attached to the granting of any conditional use permit or variance pursuant thereto shall be and the same is hereby declared to be unlawful and a public nuisance and the duly constituted authorities of the City shall, upon order of the City Council, immediately commence action or actions, proceeding or proceedings for the abatement, removal and enjoinment thereof in the manner provided by law and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate and remove such building, structure or use and restrain and enjoin any person, firm or corporation from setting up, erecting, building, moving or maintaining any such building or structure or using any property contrary to the provisions of this section.

f. Failure to abide by and faithfully comply with any and all conditions that may be attached to the granting of any conditional use permit or variance pursuant to the provisions of this Chapter shall constitute grounds for the revocation of said conditional use permit or said variance by the City Council. All remedies provided for herein shall be cumulative and not exclusive.

## ARTICLE 23-14. HOME OCCUPATIONS: PERFORMANCE AND DEVELOPMENT STANDARDS

In addition to the requirements for each residential zone, the following performance and development standards shall apply to the establishment and operation of home occupations in the E-4 and R-1 Zones.

Sec. 23-14.1. Purpose and Intent.

These regulations are provided so that certain incidental and accessory uses may be established in residential neighborhoods under conditions that will insure their compatibility with the neighborhood. They are intended to protect the rights of the residents to engage in certain home occupations that are harmonious with a residential environment.

Sec. 23-14.2. Home Occupations Permitted.

Home occupations are permitted when conducted as an accessory use to a residential use in any zone that specifies home occupations as a permitted use; subject to the requirements of Article 23-6.

Sec. 23-14.3. General Requirements.

The establishment and conduct of home occupations shall comply with the following requirements:

a. There shall be no exterior evidence of the conduct of a home occupation.

b. A home occupation shall be conducted only within the enclosed living area of the dwelling unit. There shall be no use of garage space which interferes with the parking of vehicles necessary to satisfy the off-street parking requirements of this chapter.

c. Electrical or mechanical equipment which creates visible or audible interference in radio or television receivers or causes fluctuations in line voltage outside the dwelling unit shall be prohibited.

d. The home occupation shall not create any light, noise, odor, dust, vibration, fumes or smoke that is readily discernible at the lot boundaries.

e. Only the residents of the dwelling unit may be engaged in the home occupation.

f. The establishment and conduct of a home occupation shall not change the principal character or use of the dwelling unit involved.

g. There shall be no signs other than those permitted by the zone regulations or sign provisions of this chapter.

h. The required residential off-street parking shall be maintained.

i. A home occupation shall not create greater vehicular or pedestrian traffic than normal for the zone in which it is located.

j. There shall be no dispatching of persons, vehicles or equipment from the premises pursuant to the conduct of a home occupation.

(Ord. #95-424, § 1)

## ARTICLE 23-15. OFF-STREET PARKING REGULATIONS

Sec. 23-15.1. Purpose and Intent.

These regulations are established to provide for the on-site parking of motor vehicles that are attracted by the use or uses on the premises. The parking facilities required by this section for motor vehicle parking and maneuvering are assumed to be the minimum need for such facilities created by each particular land use. It is intended that these regulations will result in properly designed parking areas of adequate capacity that will reduce traffic congestion, promote increased business, and enhance public safety.

Sec. 23-15.2. General Requirements.

a. *Off-Street Parking Location.* The required parking spaces or garages shall be located on the same building site. Property within the ultimate right-of-way of a street or highway shall not be used to provide required parking or loading facilities.

b. *Change in Use.* When the occupancy or use of any premises is changed to a different use, parking to meet the requirements of this section shall be provided for the new use or occupancy.

c. *Increase in Use.* When the occupancy or use of any premises is altered, enlarged, expanded or intensified, additional parking to meet the requirements of this section shall be provided for the enlarged, expanded, altered or intensified portion only.

d. *Usability.* All required off-street parking spaces shall be designed, located, constructed, and maintained so as to be fully usable at all times.

e. *Maximum Grades Permitted.*

1. Whenever access is taken from a street, alley or driveway to an off-street parking area serving four (4) or less dwelling units, the driveway or other vehicular accessway shall have a maximum grade of plus fifteen (+15) percent or minus six (-6) percent, measured from the street, alley or driveway grade along the driveway centerline, for a distance of not less than eighteen (18) feet from the street, alley or driveway right-of-way line.

2. Whenever access is taken from a street, alley or driveway to an off-street parking area serving industrial, commercial or professional uses, public or community facilities, or five (5) or more dwelling units, the driveway or other vehicular accessway shall have a maximum grade of a plus fifteen (+ 15) percent or a minus two (-2) percent, measured from the street, alley or driveway grade along the driveway centerline for a distance of not more than eighteen (18) feet from the street, alley or driveway right-of-way line.

3. Off-street parking spaces and the abutting access drive required for retail commercial uses shall have a maximum grade of two (2) percent. All other parking spaces shall have a maximum grade of five (5) percent. Said grade shall be measured across the parking space and for retail commercial use shall include the abutting parking aisle in any direction.

4. Ramps or driveways providing vehicular access within the interior of an off-street parking area located beyond eighteen (18) feet from the ultimate right-of-way line of a street, alley or driveway shall have a maximum slope of plus or minus twenty (+/-20) percent. When such ramp or driveway slopes exceed plus or minus ten (+/-10) percent, the ramp or driveway design shall include transitions not less than eight (8) feet in length, having a slope equal to one-half the ramp slope.

f. *Paving.* All parking spaces, driveways and maneuvering areas shall be paved and permanently maintained with asphaltic concrete, cement concrete or other all-weather surfacing.

g. *Parking Facilities for the Physically Handicapped.* Public accommodations or facilities, including shopping centers and office buildings shall provide parking spaces for the physically handicapped in accordance with the standards stipulated in the State Vehicle Code.

Sec. 23-15.3. Residential Requirements.

a. In any zone where a single-family dwelling is constructed for living purposes, for each single-family dwelling two (2) usable automobile parking spaces in a garage shall be provided and maintained on the building site. Parking space measurements in the case of a garage containing two (2) or more side-by-side parking spaces shall be of the exterior dimensions of the structure.

b. Required off-street parking for multi-family dwellings shall be provided at the following rate:

|  |  |
| --- | --- |
| Number of Bedrooms | Minimum Required Parking Spaces |
| Studio | 1.2 |
| 1 | 1.5 |
| 2 | 2 |
| 3 or more | 2.4 |

A minimum of one (1) space per unit shall be located within a garage or covered carport. In addition, guest parking shall be provided at a rate of one (1) space per five (5) units.

Mixed residential/commercial developments shall submit a parking plan subject to approval by the City Traffic Engineer demonstrating that sufficient off-street parking will be available to meet the needs of the project.

c. In any residential zone, front yard setback areas shall not be used for the storage of boats or trailers of any type, or for the storage of any vehicle, including but not limited to trucks, buses, vans and recreational vehicles, which exceed an overall length of nineteen (19) feet. As used in this section, "storage" shall mean the parking or standing of any boat or trailer of any type, or any vehicle, including but not limited to trucks, buses, vans and recreational vehicles for a period of time longer than seventy-two (72) hours per month.

(Ord. #88-373, § 1; Ord. #90-387, § 1; Ord. #98-454, § 1; Ord. #2002-482, § 8; Ord. #2016-604, § 6)

Sec. 23-15.4. Installation, Maintenance and Operation.

Parking areas serving commercial, professional, public or community facilities shall be subject to the following regulations:

a. Bumper or tire guards shall be provided along any property line which abuts a public walkway, street or alley except where screening is installed.

b. Lights used to illuminate the parking area shall be designed and located so as to confine direct rays to the premises.

c. All parking stalls shall be clearly outlined with double or hairpin lines on the surface of the parking facility.

d. All parking stalls and maneuvering areas shall be paved and permanently maintained with asphaltic or concrete surfacing, and all space within the parking area not paved shall be landscaped.

e. The parking area shall be designed so that a car entering the parking area shall not be required to enter a street to move from one location to any other location within the parking area or premises.

f. Required parking area shall not be used for any use other than the temporary storage of motor vehicles during the time the use that requires the parking is in operation.

g. Parking and maneuvering areas shall be so arranged that any vehicle entering a vehicular right-of-way can do so traveling in a forward direction.

h. Parking area notices not to exceed two (2) square feet may be located in any zone at the entrance or exit of a parking area. Such notices may contain the name of the owner or occupant of the property and any combination of the following words and symbols only; parking, park here, enter here, entrance, exit, do not enter, stop, private, public, customer only.

Sec. 23-15.5. Minimum Design Requirement.

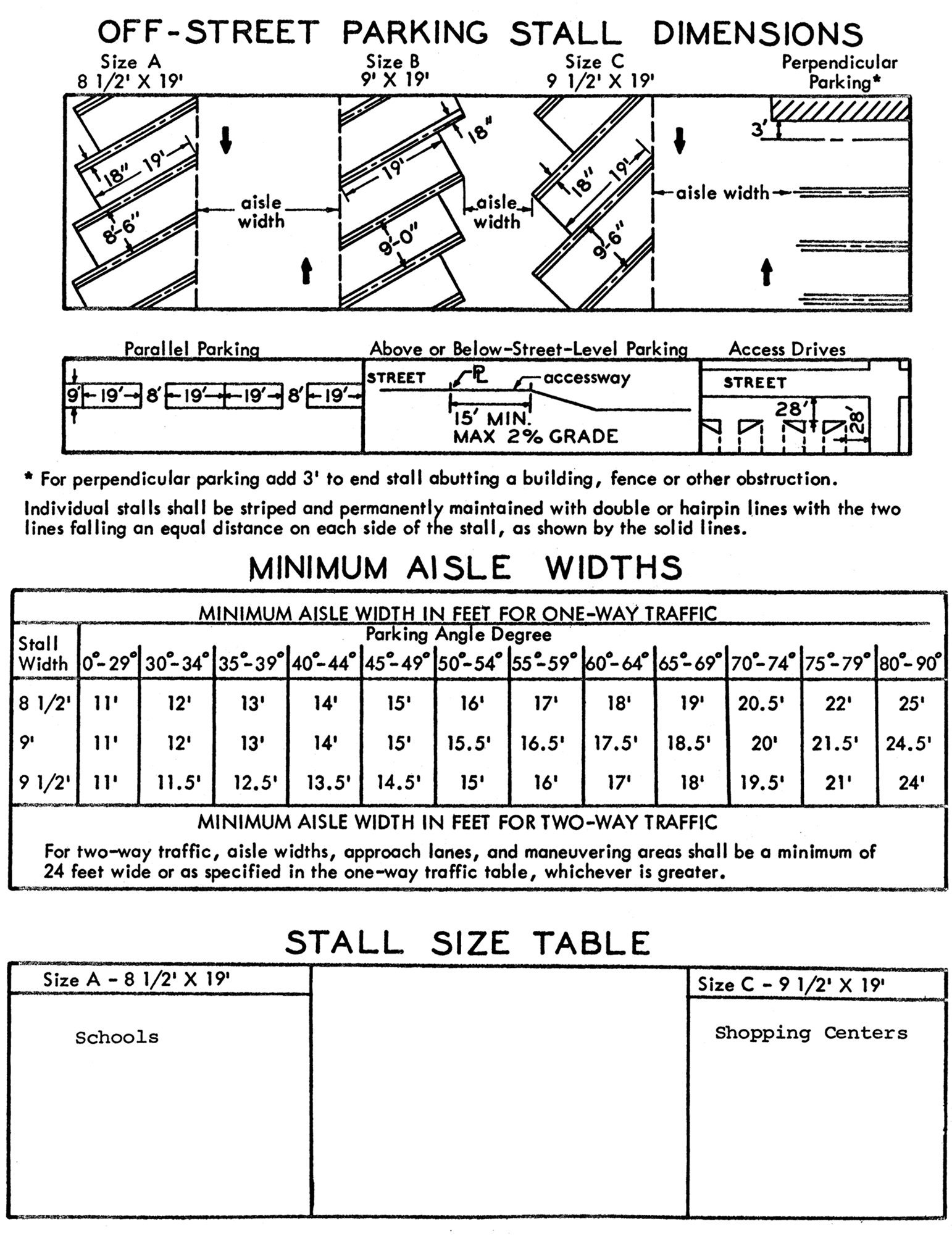
Parking areas serving commercial, or professional uses; public or community facilities; shall be subject to the following regulations:

a. Access drives leading to aisles within a parking area shall be a minimum width-of twenty-eight (28) feet.

b. Where two-way traffic is desired, aisle widths and maneuvering areas shall be a minimum width of twenty-four (24) feet.

c. A driveway or vehicular accessway from a parking area shall have a maximum grade of not more than two (2) percent for a minimum length of fifteen (15) feet immediately adjacent to a street right-of-way line.

d. Driveways and vehicular accessways providing access between a street and parking area or garage area shall be paved, marked and maintained; and they shall have a minimum width of twenty (20) feet for two-way traffic and ten (10) feet for one-way traffic.



Off-Street Parking Stall Dimensions and Minimum Aisle Widths

Sec. 23-15.6. Off-Street Parking Regulations: C-N Zone.

|  |  |
| --- | --- |
| Land Use Type | Required Off-Street Parking |
| Financial institution/bank | 1 space/200 square feet |
| ATM | 1 space per machine |
| General retail | 1 space/250 square feet |
| General office | 1 space/300 square feet |
| Salon/hair/nail, etc. | 1 space/150 square feet or 1 space/chair + 1 space/employee (whichever is greater) |
| Tutoring, learning institute, educational center | 1 space/250 square feet or 1 space per employee + 1 space/every 2 students (whichever is greater) |
| Auto service station | 1 space/250 square feet +1 space/each service bay |
| Health studio (fitness, yoga, karate, dance, etc.) | 1 space/250 square feet or 1 space/employee +1 space/2 students (whichever is greater) |
| Library | 1 space/300 square feet |
| City Hall/Institutional Use | 1 space/300 square feet |
| Restaurant (dine in available) | 1 space/150 square feet |
| Restaurant (take out only) | 1 space/250 square feet |
| Liquor store/convenience store | 1 space/200 square feet |
| Veterinarian office | 1 space/500 square feet |
| Offices with no on premise customer service | 1 space/500 square feet |
| Medical/dental/chiropractic offices | 1 space/200 square feet |
| Grocery store | 1 space/200 square feet |
| Uses not otherwise listed | 1 space/250 square feet |

;adv=6;23-15.6.a *Alternative Development Standard:* A use can propose "shared parking: an after 5:00 p.m. business that proposes to use the same parking spaces as uses that close prior to 5:00 p.m." if they can demonstrate that the Centre has adequate capacity and coordination to accommodate the shared use of parking spaces. This information shall be submitted for the review and approval of the City Manager through an Alternative Development Standard application.

(Ord. #2013-576, § 2)

Sec. 23-15.7. Off-Street Parking Regulations: Educational Uses.

Off-street parking for elementary and junior high schools shall be provided on the same site at a ratio of two (2) spaces for each classroom. A ratio of one space for each faculty member and employee plus one for each six (6) students regularly enrolled is hereby established for senior high school.

Modifications to the parking requirements for educational uses may be granted by the City Council when the land involved is of such size or shape or is affected by such topographical location or conditions, that it is impractical in the particular case to conform to the strict application of the requirements.

Sec. 23-15.8. Computation of Parking Area.

Parking area shall be computed by adding the areas used for access drives, aisles, stalls, maneuvering, and landscaping within that portion of the premises that is devoted to vehicular parking. When a fractional figure is found as a remainder in computations made to determine the number of required off-street parking spaces or garages said fraction shall be construed as a whole number.

## ARTICLE 23-16. SIGNS

Sec. 23-16.1. Purposes.

The location, height, size and illumination of permanent exterior signs are regulated in order to maintain the attractiveness and orderliness of the City's appearance; to protect property and business sites from loss of prominence resulting from excessive signs on nearby sites; to protect the public safety and welfare.

(Ord. #93-418, § 2; Ord. #2010-558, § 2)

Sec. 23-16.2. Administrative Procedures.

a. *Permit Required.* A sign permit shall be obtained from the Planning Department prior to the placing, erecting, moving or displaying of any permanent exterior roof, wall, fascia, pedestrian-oriented, or freestanding sign. A sign permit shall also be obtained prior to the reconstruction, alteration or change of copy of any existing permanent exterior signs. A building permit and/or electrical permit may also be required.

b. *Application Procedures.* Application for sign permits shall be made on forms provided by the City and shall be accompanied by the following material:

1. Sign elevation shall indicate overall area and letter/figure dimensions, colors, materials, sign dimensions, proposed copy, and illumination characteristics.

2. Site plan shall indicate all signs existing or proposed for the site with locations, dimensions, colors, materials, copy, and illumination characteristics for each sign.

3. Building elevations shall be provided with all signs depicted.

4. Other information shall be included as the Planning Department may reasonably require in order to determine compliance with all provisions of this Code.

c. *Review of Sign Applications.*

1. *General.* The Planning Department shall review all sign applications for compliance with the standards set forth in this Article and with the Sign Design Guidelines adopted by City Council resolution. Applications shall be reviewed within fifteen (15) days of filing. The Planning Department shall recommend: (a) approval, (b) approval with modifications, or (c) denial of any application in accordance with the provisions established by this article. A decision by the Planning Department may be appealed to the City Council in the manner provided by this Code.

2. No activity that has nonconforming signs may be authorized additional signs except as a replacement of the nonconforming signs with signs that comply with the provisions of this Code.

d. *Fees.* No sign permit shall become valid until the applicant has paid a sign fee in accordance with the fee schedule established by Council resolution. Sign fees shall be assessed on a per square foot basis. Fees shall also be established for change of copy on existing fixtures, variances, appeals and deposits for removal of exempt signs.

(Ord. #82-323, § 23; Ord. #93-418, § 2; Ord. #2010-558, § 2)

Sec. 23-16.3. General Provisions.

a. *Uncertainty of Section Provisions.* Whenever the regulations in this article are uncertain due to ambiguity of the provisions, the application shall be referred to the City Council for a determination. The Council shall then authorize signs that best fulfill the intent of this article.

b. *Exempted Signs.* The following signs, if not illuminated, are allowed in all districts with no permit required:

1. Governmental or other legally required posters, notices, and signs.

2. Interior signs as defined by this Code.

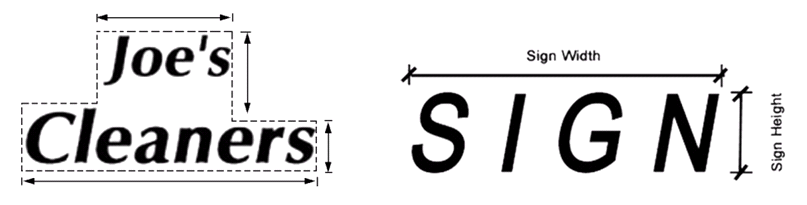
3. Charitable posters and notices for a period not to exceed thirty (30) days before and seven (7) days following an event.

4. Posters and signs for lost domestic pets for a period of seventy-two (72) hours as long as said poster or sign is of a reasonable size and does not visually obstruct traffic.

c. *Abatement of Signs Relating to Inoperative Activities.* Signs pertaining to enterprises or occupants that are no longer involved with a property shall be removed from the premises, within thirty (30) days after the associated enterprise or occupant has vacated the premises. Any such signs not removed within the required period shall constitute a nuisance and shall be subject to summary abatement procedures pursuant to Section 38773 of the California Government Code, and the expense of such abatement shall be recovered by a lien against the property on which the sign was maintained and a personal obligation against the property owner. Said property owner shall first be served with a notice to abate the nuisance and shall be given the opportunity for a hearing. If, after such opportunity for hearing, the City Manager or designated representative, orders agents of the City to remove the nuisance, they shall have the authority to enter upon the private property to remove the signs constituting the nuisance. The provisions of this subsection may be utilized separately from, as an alternative to, or in conjunction with, any other remedy provided by law.

d. *Prohibited Signs.* Any sign not expressly permitted by Article 23-16 shall not be permitted and shall be deemed a violation.

e. *Sign Area Measurement.* The area of a sign shall be measured within a single continuous perimeter of not more than eight (8) straight lines enclosing the extreme limits of letters, emblems, logos, or any similar character, together with any material or background forming an integral part of the display or used to differentiate the sign from the background against which it is placed. Supporting framework or bracing that is clearly incidental to the sign shall not be computed as sign area.



*Exhibit 23-16.3 e (a)*

f. *Sign Height Measurement.* The height of a freestanding sign shall be measured from the highest part of the sign, including any decorative features, to the lowest existing surface grade beneath the sign.

g. *Sign Removal or Replacement.* When a sign is removed or replaced all brackets, poles, and other structural elements that supported the sign that are not being used shall be removed. Affected building surfaces shall be restored to match the adjacent portion of the building.

(Ord. #82-323, § 23; Ord. #93-418, § 2; Ord. #2009-548, § 1; Ord. #2010-558, § 2)

Sec. 23-16.4. C-N (Commercial) Zone.

a. *Roof Signs.*

1. *Permitted Signs.* Commercial activities in one-story buildings shall be permitted to have roof signs, except for activities in excess of one hundred and forty (140) feet of frontage, which shall be allowed wall-mounted signs only.

2. *Number of Signs.* Each eligible activity shall be permitted one (1) roof sign per frontage with a maximum of three (3) roof signs.

3. *Sign Type.* Only channel-type, open, individual letters are permitted.

4. *Sign Area.* The maximum area allowed for a roof sign shall be one (1) square foot of sign area per each lineal foot of business (bay) frontage. However, no sign shall exceed a total of thirty (30) square feet in area for a single tenant space. Where a business occupies multiple suites, the sign area shall be increased to allow the tenant to install a sign equal to one (1) square foot of sign area per each lineal foot of the combined frontage. This exception shall be subject to the review and approval of the City Manager.

5. *Sign Height.* The typical letter height shall not exceed eighteen (18) inches. However, in order to allow and encourage creativity and artistic design: Ascending and descending letters; creative logos; corporate taglines and backgrounds may exceed the letter boundary with the review and approval of the City Manager. The overall height of the sign measured from the bottom of the sign (including any electrical raceway, other support structure, or the sign background) to the upper most part of the sign shall not exceed twenty-four (24) inches.

6. *Location.* Signs shall be located within the middle fifty (50) percent of the building or occupancy's frontage measured from lease line to lease line.

7. *Electrical Raceways.* Electrical raceways shall be integrated with the overall design of the sign to the greatest degree feasible. Raceways shall not extend beyond the outside edges of the sign copy and shall be painted to match the color of the background on which they are placed. The Planning Department may approve a different color if such color would make the raceway less visible.

8. *Colors.* Signs shall be limited to a maximum of three (3) colors per sign, except for federally regulated trademarks.

9. *Illumination.*

(a) Signs may be illuminated by either an interior or exterior source. External light sources shall be shielded from view and shall be directed in such a manner to illuminate only the sign face. Light spill beyond the sign letters, or the sign's back panel shall not be permitted.

(b) Each illuminated sign shall be provided with a dimming device to control the intensity of illumination unless it can be clearly demonstrated that a dimming device is not compatible with the particular type of illumination being proposed.

(c) Signs that appear overly bright shall be dimmed or the source of illumination shall be changed to a lesser intensity when required by the Planning Department.

b. *Balcony Fascia Signs.*

1. *Permitted Signs.* Commercial activities in two-story buildings shall be permitted to have balcony fascia signs.

2. *Number of Signs.* Each eligible activity shall be permitted one (1) balcony fascia sign.

3. *Sign Area and Height.* A balcony fascia sign shall not exceed five (5) square feet and twelve (12) inches in height.

4. *Lettering.* Lettering shall not exceed eight (8) inches in height.

5. *Colors.* Colors shall be compatible with those of the principal building.

6. *Illumination.* Not allowed.

7. *Installation.* Balcony fascia signs shall be installed parallel with the building being addressed. First-story fascia signs shall be suspended from the balcony above. Second-story fascia signs shall be suspended below the building fascia.

c. *Freestanding Signs.*

1. *Permitted Signs.* Freestanding signs shall be permitted only for tenants with one hundred forty (140) feet or more of building frontage with the approval of a conditional use permit. Freestanding signs include only pylon-type signs, which may have either a solid base or a base comprised of two (2) legs.

2. *Height.* The height of a freestanding pylon sign shall not exceed thirty (30) feet measured from the existing surface grade beneath the sign or the top of the adjacent curb, whichever is lower.

3. *Area.* The sign area of a freestanding pylon sign shall not exceed one hundred (100) square feet.

4. *Setback.* Freestanding signs shall be set back a minimum of five (5) feet from a street and a minimum of ten (10) feet from the edge of a driveway. Freestanding signs shall not project over any building, or over any on-site driveway or vehicle circulation area.

5. *Letter Size.* To ensure the readability of freestanding signs, the minimum letter size allowed shall be eight (8) inches. Sign copy shall not be located closer than one-half-letter height to the sign edge or other line of copy.

6. *Design.* The supporting structure of a pylon sign shall not include exposed metal pole(s), but shall be surrounded by a decorative cover that is architecturally compatible with the sign cabinet and the architectural character of buildings on the site.

7. *Landscaping.* Landscaping with automatic irrigation shall be provided at the base of the supporting structure equal to the area of one (1) face of the sign or seventy-five (75) square feet, whichever is greater. The City Manager may waive or modify this requirement to take into account existing conditions.

d. *Wall-Mounted Signs.*

1. *Permitted Signs.* One (1) wall-mounted sign shall be permitted for tenants with one hundred forty (140) feet or more of building frontage.

2. *Area.* The maximum sign area of a wall sign shall be eighty (80) square feet.

3. *Height.* A wall sign shall not extend above the highest point of a pitched roof, mansard roof, or parapet line of a building.

4. *Location.* Signs shall be located within the middle fifty (50) percent of the building or occupancy's frontage measured from lease line to lease line.

e. *Professional Service Wall/Door Plaques.*

1. *Permitted Signs.* Professional service activities shall be permitted to display wall/door plaques.

2. *Number Signs.* Each occupant shall be permitted one (1) name plaque and one (1) specialty plaque.

3. *Sign Area.* Each wall plaque shall not exceed one (1) square foot.

4. *Color.* Plaques shall be antiqued bronze in color.

5. *Illumination.* Not allowed.

6. *Location.* Plaques shall be installed parallel to and upon the wall or door.

f. *Glass Door Signs.*

1. *Permitted Signs.* Signs indicating business activities shall be permitted on glass doors.

2. *Lettering.* Lettering shall not exceed three (3) inches in height.

3. *Copy.* Copy shall be limited to the following, in English:

(a) Business name.

(b) Days and hours of operation.

(c) Emergency telephone numbers.

4. *Decals.* Business-related decals shall be permitted. Total decal area shall not exceed one (1) square foot.

g. *Window Signs.*

1. *Permitted Signs.* Signs indicating business activities shall be permitted on windows.

2. *Copy.* Copy shall be restricted to one (1) or a combination of the following:

(a) Business name.

(b) Days and hours of operation.

(c) Products and services offered.

(d) Emergency telephone numbers.

3. *Lettering.* Letters shall not exceed ten (10) inches in height.

4. *Sign Area.* The total sign area shall not exceed twenty-five (25) percent of the total window area. A minimum of seventy-five (75) percent of the total window area shall be unobstructed.

5. *Decals.* Decals shall be included in the maximum permitted sign area.

6. *Optional Window Sign.* A wood or simulated wood carved or relief style sign may be mounted or hung inside and parallel to the window. Said sign shall not exceed six (6) square feet and shall be of standard type letters and colors. Optional window signs shall be included in the maximum permitted sign area.

h. *Awning Signs.*

1. *Permitted Signs.* Signs indicating business names or activities shall be permitted on awnings.

2. *Number Signs.* Each occupant shall be permitted a maximum of two (2) signs placed on awnings. There is no limit to the number of awnings.

3. *Lettering.* Lettering shall not exceed six (6) inches in height.

4. *Material.* Awnings shall be matte finish canvas. Vinyl awnings are prohibited.

5. *Illumination.* Not allowed.

6. *Location.* Awnings may be placed only above windows and shall not project more than twelve (12) inches from the window frame.

i. *Pedestrian-Orientated Projecting Signs.*

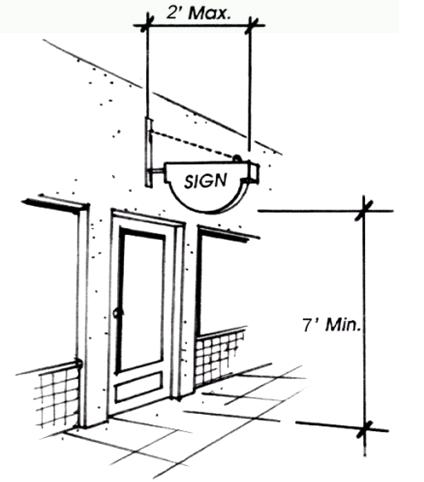
1. *Permitted Signs.* One (1) pedestrian-oriented projecting sign for each business.

2. *Number of Signs.* One (1) unlighted sign per business indicating the generic or business name only.

3. *Type of Sign.* Signs may be wood with painted letters, carved wood or carved PVC, or cut out metal. Signs shall be supported by simple metal brackets of uniform design and shall be painted black.

4. *Sign Area.* Signs shall not exceed eighteen (18) inches by eighteen (18) inches in area.

5. *Location.* Signs shall be located adjacent to the main entrance to the business and shall project from the building surface perpendicular to the sidewalk. Projecting signs shall not extend more than two (2) feet beyond the face of the building. There shall be a minimum of seven (7) feet of clearance beneath projecting signs.



*Exhibit 23-16.4 (b)*

j. *Direction Signs for Drive-through Facilities.*

1. *Permitted Signs.* One (1) freestanding or building-mounted sign shall be permitted for each use having a vehicle drive-through facility.

2. *Sign Area and Height.* Signs shall not exceed four (4) square feet in area and freestanding signs shall not exceed three (3) feet in height.

3. *Location.* Signs shall be located near the entrance to the drive-through facility.

k. *Neon and Light-emitting Diode (LED) Signs in Windows.*

1. *Permitted Signs.* The following interior signs are permitted. No other neon or LED signs shall be permitted. Exterior neon or LED signs are not permitted.

(a) One (1) interior neon or LED sign per business location indicating that the establishment is open for business shall be permitted. Such sign shall contain only the word "OPEN." The sign shall not exceed four (4) square feet in area.

(b) One (1) interior neon or LED sign per business location indicating a generic product or service shall be permitted. The sign shall not exceed four (4) square feet in area.

2. *Brightness.* The output of neon lamps shall not exceed thirty (30) milliamperes.

l. *Temporary Banners.*

1. *Permitted Banners.* Banners relating to grand openings, sales, and ownership changes shall be permitted.

2. *Number of Signs.* One (1) banner per exposed side or store front shall be allowed and may be hung either inside or outside the establishment.

3. *Area.* Banners shall not exceed four (4) feet by twelve (12) feet.

4. *Time Period.* Banners are permitted for a period not to exceed thirty (30) days and shall display the date of installation in a prominent location.

m. *Seasonal Decorations.*

1. *Temporary Display.* Seasonal decorations and seasonal exterior artistic paintings shall be temporary in nature.

2. *Time Period.* The display of seasonal decorations and seasonal exterior artistic paintings shall be limited to a period of not more than forty (40) days.

(Ord. #82-323, § 23; Ord. #84-336, § 3; Ord. #93-418, § 2; Ord. #2008-531, § 2; Ord. #2010-558, § 2; Ord. #2012-571, § 1)

Sec. 23-16.5. Residential Zones.

a. *Neighborhood Identification Signs.* Neighborhood identification signs may be authorized by the Planning Department for residential areas that include at least five (5) acres of land area. Prior to approval of neighborhood signs, the Planning Department shall first determine that the proposed sign is compatible with the area being identified.

(Ord. #82-323, § 23; Ord. #2010-558, § 2)

Sec. 23-16.6. Special Regulations.

Certain activities and geographic areas have unique signing needs. In order to provide the appropriate level of signing for businesses and locations which have special requirements, the City Council may adopt such regulations as necessary to carry out the intent of this section. Once adopted, special regulations shall be uniformly applied to all uses within the defined classification.

a. *Gasoline Service Stations.* Gasoline service stations, because of their unique merchandising methods and easily recognizable design, are subject to the following requirements:

1. *Wall Signs.* The aggregate area of all wall signs shall not exceed forty (40) square feet. Official repair station signs shall be within the allowable aggregate area.

2. *Price Sign.* Two (2) non-illuminated price signs not to exceed ten (10) square feet in area shall be authorized. Credit card logos may be attached.

3. If the criteria set forth by this subsection may impair pedestrian or vehicular visibility, the City Council shall require the necessary modification to assure public safety.

b. Commercial business activities in the C-N Commercial Zone that meet all of the following criteria may be permitted exterior building signs and awning signs in accordance with the provisions of subsection c, below:

1. The business activity has attained national or regional name recognition as a singular business activity, as determined by the Planning Department.

2. The business activity has adopted uniform sign identification, including name, sign content, type style, logo style and color, as determined by the Planning Department.

3. The business activity occupies a minimum of three thousand (3,000) square feet of enclosed, contiguous building area in the C-N Commercial Zone.

c. Each business activity meeting the criteria set forth in subsection b, above, may be permitted individualized, exterior building signs and awning signs in accordance with the following requirements:

1. *Number of Signs.* Each eligible activity shall be permitted one (1) exterior building sign per frontage with two (2) signs maximum and up to two (2) awning signs.

2. *Size of Signs.* Exterior building signs shall be proportionate to the exterior dimensions of the structure occupied, as determined in accordance with the provisions of Article 23-9, "Architectural Supervision."

3. Location of signs, sign content, type style, logo style and sign colors shall be as determined in accordance with the provisions of the Sign Design Guidelines.

(Ord. #88-377, § 1; Ord. #2010-558, § 2)

Sec. 23-16.7. Temporary Signs.

Temporary signs mean a sign erected for a temporary purpose attracting attention to an activity as provided for within this chapter and includes any political sign.

a. Temporary signs are subject to the following criteria:

1. *Illumination.* Temporary signs shall be non-illuminated, either internally or externally.

2. *Size.* Temporary signs, including real estate signs, shall not exceed six (6) square feet in total area for one (1) side. No sign shall exceed seven (7) feet in total height from the finished or natural grade where the sign is placed in a front yard setback and ten (10) feet in total height in a rear or side yard setback (exhibit 23-16.7(a)(2)). Nothing in this section shall prohibit the use or display of on site commercial signage or banners consistent with section 23-16.4(l).

3. *Placement.* No person shall affix a temporary sign on any traffic signal, utility pole or box, traffic control device, or public tree. Furthermore, temporary signs shall not be located within, median, public property or within a public park area. Public right-of-way within residential districts is the first seven (7) feet behind the curb line and temporary signs are allowed within this area. (exhibit 23-16.7 (a)(3)) Real estate signs shall be limited to one (1) per building site.

4. *Permission for Placement.* Vacant private property shall require written permission of the property owner prior to the placement of any sign. Property that is occupied shall only require verbal permission from an adult resident of the property over the age of eighteen (18) years. Permission is required for placing signs within the defined public right-of-way of private properties. Commercial property in which a sign is placed within a store front window shall require permission of the lease holder; signs attached to the ground or to the building require building owner permission. Temporary, non-political signs over 6 square feet within the residential zone are not allowed.

5. *Visibility Obstructions.* Temporary signs shall not be installed or maintained in any manner so as to impede vehicles or the vision of drivers and pedestrians, or permitted parking adjacent to curb, pedestrian walkways, hinder disabled access, or constitute a hazard to or endanger persons using the sidewalks or recreation trails.

6. *Liability.* Any person, party or group posting such temporary signs shall be liable to the City of Villa Park, private property owners and the general public for any injury to persons or property resulting from the placement and maintenance of the sign.

7. *Timeline.* All temporary signs pertaining to a particular event or election day shall not be erected more than forty-five (45) calendar days prior to the event to which the sign pertains and shall be removed within five (5) calendar days after the date of the event or election day.

8. *Abatement.* If the City Manager or any designated representative finds that any temporary sign has been posted or is being maintained in violation of the provisions of this section, the responsible party shall be given notice to remove said sign(s) within twenty-four (24) hours from the time of said notice. The notice, which may be either a verbal notification or a written notice, shall include a brief statement of the reasons for requiring removal. If the person so notified fails to correct the violation or remove the sign(s), the City may cause said sign(s) to be removed without further notice. If the responsible party for the sign cannot in good faith be located within a reasonable time, the sign shall be deemed abandoned. Signs located in the public right-of-way or on public property may be removed by the City without notice.

9. *Abandonment.* Any temporary sign that remains posted for more than six (6) calendar days after the event or election to which it pertains shall also be deemed abandoned. The City Manager or any assigned designee may cause such abandoned signs, and any signs which constitute an immediate peril to persons or property, to be removed summarily and without prior notice. The City shall assess a charge against any person, candidate, entity, party or group posting or placing signs in violation of this section for all costs incurred in the removal.

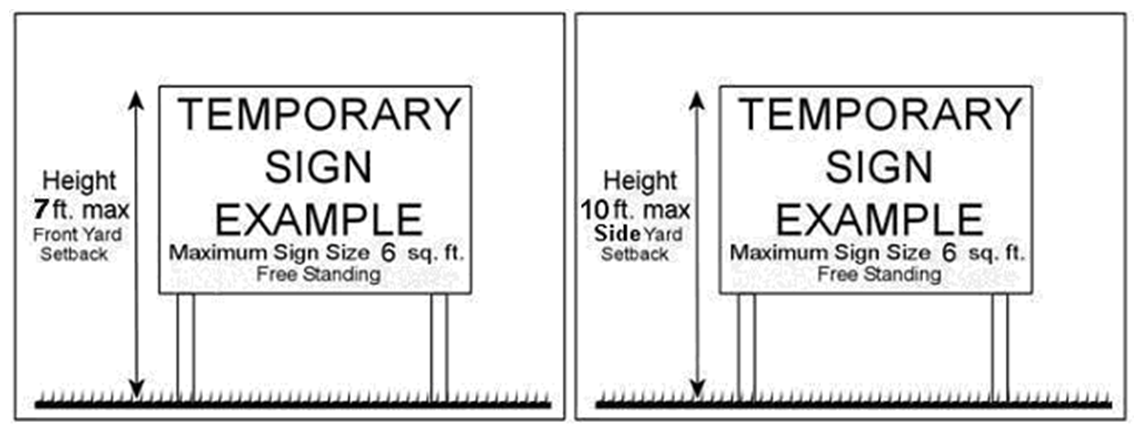
10. *Theft.* It shall be considered "theft" to remove a temporary sign by anyone other than a City official in the act of abatement due to violation of this Section. Private property owners may remove signage from their property or the defined public right-of-way maintained by the owner at any time. Those who otherwise remove a legally placed temporary sign without permission from the person or organization that placed the sign shall be in violation of criminal codes associated with theft and/or trespass.

11. *Sign Identification.* For temporary signs that are political, the candidate, committee, or any other authorized person posting temporary signs shall insure that all signs include the name and address or the required committee identification number of the campaign or political organization that paid for the sign ("identification requirements"). Temporary signs of a commercial nature require a contact phone number and address. The identification requirements shall be permanently affixed to the sign in a manner that allows the City Manager or any designated representative, to ensure that the identification requirements will remain affixed to the sign during the duration of the campaign or event.

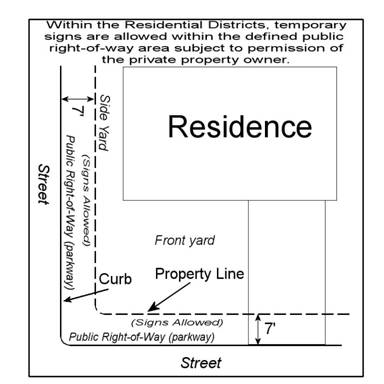
12. *Limit per property for certain signs.* Temporary signs pertaining to a particular special event or election day must be freestanding, and shall be limited to two (2) signs per property for each event, each candidate, or each measure, except that if a political event or other special event is being held on the property, this sign limit shall not apply for the duration of that event. For the purposes of this section, a double-sided sign shall be considered to be one (1) sign.

b. Protected speech signs shall be subject to the same criteria as listed in Section 23-16.7(a) with the following exceptions:

1. Protected speech signs shall be considered temporary and the sign shall not remain posted for more than fifty (50) calendar days. Furthermore, protected speech signs shall not be painted onto a fence or wall, regardless if the message is on private or public property.



**Exhibit 23-16.7(a)(2)**



**Exhibit 23-16.7(a)(3)**

(Ord. #2008-531, § 1; Ord. #2011-563, §§ 1—3)

## ARTICLE 23-17. RECREATIONAL COURTS AND EXTERIOR LIGHTING OF RECREATION COURTS

Sec. 23-17.1. Purposes.

This section is intended to regulate the construction of recreational court fencing and exterior court lighting in the E-4 Zone, to secure for the citizens of Villa Park the social and economic advantages resulting from an orderly planned use of its land resources and to protect the general health, safety and welfare of the citizens.

Sec. 23-17.2. General Provisions.

a. The construction of the recreational courts and the necessary fencing and exterior lighting may be permitted subject to the issuance of a conditional use permit after the normal public hearings and after approval by the City Manager. The property owner shall submit an application for said recreational court, which application shall include a scale drawing of the property clearly showing the property lines and proximity to any dedicated or private streets. In addition, the application shall show the location of the property in proximity to the nearest major cross streets, the location of all existing neighboring structures and a list of all owners within three hundred (300) feet of the exterior boundary of the premises to which the application pertains, and the elevation of the property in relation to all property located within three hundred (300) feet of the subject property.

b. The detailed plan shall show clearly the areas of the property to be covered by cement, sand, asphalt, or other hard surface, and shall include a separate detailed scale drawing showing the height, location, design, and materials to be used in any fencing and/or screening material to be constructed as a portion of the recreational courts. Said plan shall also clearly show the location, type, and illuminating power of any artificial lighting to be used or installed as an incident to said recreational courts.

c. The application shall clearly state whether the existing drainage on the subject property will be altered by the construction of the recreational courts. To the extent that the drainage will be altered, the applicant shall include as a part of his application, a grading plan prepared by a registered civil engineer. Said grading plan must show how the drainage will be handled after the completion of the court. The drainage plan shall be reviewed by the City Engineer and must be approved by him prior to the issuance of the conditional use permit.

(Ord. #82-323, § 23)

Sec. 23-17.3. Procedures.

The City Manager shall receive such application, and shall conduct a public hearing giving proper notices as required by ordinance or law, and may impose any reasonable conditions prior to granting said conditional use permit, including but not limited to the following:

a. The City Manager may limit the height and location of the fence with respect to the property line of the property as the City Manager shall deem necessary, taking into consideration the site, location, terrain, existing natural barriers, such as trees, shrubs, or hillsides, and the proximity of said recreational courts to any public or private streets. In addition, the City Manager shall consider the impact that said fence may have on adjoining property owners. Unless special conditions exist, the fencing shall not exceed ten (10) feet in height, and the City Manager may restrict the height to less than ten (10) feet in areas where the City Manager determines that a lower fence would be adequate, provided however that in no case shall a fence be constructed in excess of six (6) feet unless specifically applied for and approved by the City Manager. (See illustrations)

b. In addition, the City Manager may in his discretion, require the installation of any landscaping, including trees, shrubs, or other natural flora to be installed and maintained between the fence and the property line, if the City Manager finds, after public hearing, that such plants would be necessary to minimize the impact of the fence on any adjacent property.

c. The City Manager shall have the authority to impose a condition that no net, canvas or other screening device be attached to the fence in excess of the normal height restriction of the front, side or rear yard setback, if the City Manager determines that such net, canvas or screening would unduly interfere with any adjoining property owner.

d. The City Manager shall consider the intensity and quality of lighting, which must conform to subsection 23-17.4 to be installed and, in their discretion, may limit, restrict or prohibit lighting depending upon the circumstances surrounding the property. To the extent that lighting is permitted, its use shall be restricted to the hours of 7:00 a.m. and 10:30 p.m.

e. The application shall specify the type of fencing to be used including the size, number and spacing of supporting posts, and cross members and the size or gauge of the fencing material to be installed. No view-obstructing fencing will be permitted unless exceptional circumstances exist with respect to the property. If chain link fencing is utilized, it shall be of eleven (11) gauge or heavier.

(Ord. #82-323, § 23)

Sec. 23-17.4. Lighting Restrictions for Recreational Courts.

a. *Distance of Fixtures and Poles from Lot Lines.*

1. No light fixture shall be located at a horizontal distance less than ten (10) feet from the nearest lot line.

2. No supporting pole shall be located at a horizontal distance less than five (5) feet from the nearest lot line.

b. No light fixture or supporting pole shall be located at a vertical distance greater than twenty-two (22) feet from the court surface. This shall mean the highest point of fixture or supporting pole.

c. *Number of Poles and Fixtures Permitted.*

1. No more than one light fixture per six hundred (600) square feet of court surface area is permitted.

2. A maximum of eight (8) light fixtures per recreational court are permitted.

3. A maximum of eight (8) poles per recreational court are permitted.

d. The power rating of the lamp shall not exceed five hundred (500) watts per light fixture.

e. The total power rating of all lamps shall not exceed one watt per square foot of court surface.

f. The light fixture must be designed, constructed, mounted and maintained such that, with supplementary shielding the light source is cut-off when viewed from any point above five (5) feet measured outside of the lot at the lot line.

g. The light fixture must be designed, constructed, mounted, and maintained such that with supplementary shielding as necessary the maximum illumination intensity measured at the wall of any residential building on abutting property shall not exceed one-half (½) footcandle above ambient levels.

h. The surface area of any recreational court shall be designed, painted, colored and/or textured as to reduce the reflection from any light incident thereon.

i. Recreational court lighting may be operated only during the hours between 7:00 a.m. and 10:30 p.m.

Sec. 23-17.5. Certification and Validating of Recreational Court Lighting.

a. Recreational court lighting design and installation plans shall be certified as conforming to this section prior to the issuance of electrical permits and prior to construction or reconstruction. Certification shall be by a Registered Professional Electrical Engineer.

b. Recreational court lighting shall be certified as conforming to this section after installation by a Registered Professional Electrical Engineer to the City of Villa Park in writing.

c. It shall be the duty of the City Engineer to validate conformity of recreational court lighting with the provisions of this section prior to final approval of the electrical construction by the Building Official.

Sec. 23-17.6. Enforcement, Legal Procedure, Penalties.

a. Operation of any lighting contrary to the provision of this section is hereby declared to be unlawful and a public nuisance.

b. It shall be the duty of the City Manager and of all officers of said City otherwise charged with the enforcement of the law to enforce this section and all provisions of the same.

c. Upon receipt of a complaint, by an identified complainant relative to the provisions in subsection 23-17.4 paragraphs a. through h.

1. The City shall mail notice to the property owner by registered or certified mail specifying the nature of the alleged violation.

2. The City shall determine within sixty (60) days the nature of the violation or violations, if any and the date of lighting installation and whether the cause of complaint continues to exist.

3. If it is determined that the lighting is in compliance with subsection 23-17.4, paragraphs a through h, the City shall send written notification to the property owner and to the complainant that no violation exists as of the date of completion of the investigation.

4. If it is determined that the lighting is in violation of subsection 23-17.4, paragraphs a through h, the City shall send written notice to the property owner by registered or certified mail and to the complainant specifying the nature of the violation or violations within the conformance time specified in subsection 23-18.3.b., for lighting installed prior to November 22, 1976, or within ninety (90) days for lighting installed subsequent to November 22, 1976. The failure to do so will constitute a misdemeanor.

5. After notification enumerated in paragraphs c1, c2, and c4 of this subsection, and immediately following the period of time permitted for compliance specified in paragraph c4, the duly constituted authorities of the City shall upon order by the City Council immediately commence action or actions, or proceedings to eliminate the violation thereof in the manner provided by law and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief.

(Ord. #82-323, § 23)

## ARTICLE 23-18. NONCONFORMING USES-STRUCTURES, SIGNS AND LIGHTING

Sec. 23-18.1. Structures.

The lawful use of land existing at the time this Code or amendments thereto take effect, although such use does not conform to the provisions hereof, may be continued, but if such nonconforming use is discontinued for a period of one year any future use of said land shall be in conformity with the provisions of this Code.

The lawful use of a building existing at the time this Code or amendments thereto take effect, may be continued, although such use does not conform with the provisions hereof, and such use may be extended throughout the building provided no structural alterations, except those required by law or ordinance or permitted under Article 23-13 of this Code are made therein. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification.

No existing building designed, arranged or intended for or devoted to a use not permitted under the regulations of this Code for the zone in which such building or premises is located shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a use permitted under the regulations specified by this Code for such zone in which said building is located; provided, however, that work done in any period of twelve (12) months on ordinary structural alterations or replacement of walls, fixtures or plumbing not exceeding twenty-five (25) percent of the assessed value of the building according to the assessment thereof by the Assessor of the County for the fiscal year in which such work is done shall be permitted provided that the cubical contents of the building as it existed at the time this Code or amendments thereto take effect be not increased.

An existing main building or structure conforming as to use but which does not conform to the height, yard or building site area regulations of the zone in which it is located may be altered, added to or enlarged, provided such alteration, addition or enlargement complies with such zone regulations and the size of the building as altered or enlarged does not exceed the size permitted by said height, yard and building site area regulations.

If at any time any building in existence or maintained at the time this Code or amendments thereto take effect which does not conform to the regulations for the zone in which it is located shall be destroyed by fire, explosion, act of God or act of the public enemy to the extent of more than fifty (50) percent of the total replacement value thereof, then and without further action by the City Council said building and the land on which said building was located or maintained shall from and after the date of such destruction be subject to all the regulations specified by this Code for the zone in which such land and building are located.

(Ord. #88-376)

Sec. 23-18.2. Signs.

a. *General Provisions.*

1. A nonconforming sign may not be:

(a) Changed to another nonconforming sign;

(b) Structurally altered so as to extend its useful life;

(c) Expanded;

(d) Reestablished after discontinuance for ninety (90) days or more;

(e) Reestablished after damage or destruction of more than fifty (50) percent of the value.

2. All illegal signs shall be removed or made to conform to this Chapter within ninety (90) days.

3. All nonconforming signs shall be removed or made to conform according to Schedule I or Schedule II, whichever is longer.

b. *Schedule I.* Time periods are calculated from the date of adoption of this section.

1. Painted wall window sign—Four (4) months.

2. Wood frame sign—Four (4) months.

3. Metal frame, neon sign—Four (4) months.

c. *Schedule II.* Time periods are calculated from the date of adoption of the enabling legislation.

|  |  |
| --- | --- |
| *Value* | Time Period |
| Under $500.00 | One year |
| $500.00 to $1,000.00 | Two (2) years |
| For each additional $500.00 increment | An additional six (6) months |
| Maximum Period | Six (6) years. |

d. An owner of a sign who desires to rely on an amortization period longer than four (4) months for a painted wall sign, four (4) months for a metal frame or neon sign, shall file with the City Council, on forms provided, a statement setting forth the value of said nonconforming sign on the date of adoption of this section. In no case, however, shall the declared value exceed the estimated replacement value for the said nonconforming sign. The City Manager shall use the current construction costs for each sign type for estimating replacement value.

(Ord. #82-323, § 23)

Sec. 23-18.3. Lighting.

a. *General Provisions.*

1. Nonconforming exterior lighting may not be:

(a) Changed to other nonconforming lighting;

(b) Structurally altered so as to extend its useful life;

(c) Expanded;

(d) Reestablished after damage or destruction of more than fifty (50) percent of the value.

b. All nonconforming recreational court lighting fixtures shall be modified and made to conform according to the following schedule wherein the time for conformance shall commence with the written notification for the City Manager of nonconformance with this section.

|  |  |
| --- | --- |
| *Total Original Light Fixture Costs* | Conformance Time |
| Greater than $2,000.00 | Five (5) years |
| $1,000.00—$2,000.00 | Three (3) years |
| $500.00—$1,000.00 | Two (2) years |
| $100.00—$500.00 | One year |
| Less than $100.00 | Sixty (60) days |

However, in no event shall the conformance time for any property, the owner of which has been given written notice of nonconformance, extend beyond a change of ownership of the property. A copy of the notice shall also be recorded with the County Recorder containing a legal description of the property.

c. Any recreational court lighting installed prior to November 22, 1976, adopted date of Urgency Ordinance No. 76-247, An Urgency Ordinance of The City Council of The City of Villa Park Declaring A Moratorium On Any New Recreational Court Lighting For A Period of 120 Days, which does not conform to the provisions of this chapter need not necessarily be completely removed or relocated if the property owner can demonstrate all of the following to the satisfaction of the City Council.

1. That the existing installation is an integral part of the recreational court.

2. That a significant expense would be required to relocate the lighting system.

3. That the new location of the light fixture or support poles would interfere with the usability of the recreational court.

4. That there is some other way to substantially meet the objective of this chapter.

Any property owner desiring relief from the requirements to conform to the provisions of this section shall prior to the expiration of period prescribed in paragraph b. of this subsection file an application for relief with the City Council. Such application shall be in the form of a conditional use permit, but no fee shall be required. The City shall give notice of a public hearing to be held in the appropriate form and manner required for a conditional use permit.

The decision of the City Council in these matters shall be final.

(Ord. #82-323, § 23)

## ARTICLE 23-19. VARIANCES, CONDITIONAL USES AND ZONE CHANGES

Sec. 23-19.1. Purpose—Zone Change.

The zoning map and zoning regulations may be amended by changing the boundaries of any zone or by changing any zone regulation or any other provision of this chapter in accord with the procedure prescribed in this section and state law. In the event of any conflict state law shall control.

(Ord. #2004-502, § 1)

Sec. 23-19.2. Purposes and Authorization—Variances.

a. Variance from the terms of the zoning chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

b. The power to grant variances does not extend to use regulations. Flexibility to the zoning regulations is provided in the conditional uses provisions of this chapter.

c. The City Council may grant variances to the regulations prescribed by this chapter, in accord with the procedure prescribed in this section, with respect to fences, walls, hedges, screening, and landscaping; site area, width and depth; front, rear and side yards; coverage; height of structures; distances between structures; usable open space; signs; off-street parking facilities, or frontage on public street. With respect to rear and side yard setbacks, the City Manager is authorized to act on variances decreasing not more than twenty-five (25) percent of said setbacks as prescribed in Article 23-20.

(Ord. #82-323, § 23)

Sec. 23-19.3. Purposes and Authorizations—Conditional Uses.

In order to give the use regulations the flexibility necessary to achieve the objectives of this chapter, in certain zones conditional uses are permitted, subject to the granting of a conditional use permit. Because of their unusual characteristics, conditional uses require special consideration so that they may be located properly with respect to the objectives of the zoning regulations and with respect to their effects on surrounding properties. In order to achieve these purposes, the City Council is empowered to grant and to deny applications for use permits for such conditional uses in such zones as are prescribed in the zone regulations and to impose reasonable conditions upon the granting of conditional use permits. The City Manager pursuant to Article 23-17 is authorized to act on conditional use permits for recreational courts and recreational court lighting. In all cases, the City Council has the final authority in the granting of conditional use permits.

(Ord. #82-323, § 23)

Sec. 23-19.4. Initiation—Zone Change.

a. Change in the boundaries of any zone application for zone change, variance or conditional use permit may be initiated by the owner or the authorized agent of the owner of the property by filing an application for same as prescribed in this section. If the property for which a change of zone, variance or use permit is proposed is in more than one ownership, all the owners or their authorized agents shall join in filing the application.

b. A change in the boundaries of any zone or a change in the regulations may be initiated by Resolution of the City Council.

Sec. 23-19.5. Variances, Conditional Uses and Zone Changes Application: Data and Maps to be Furnished.

Application for variances, conditional use permits or zone changes shall be filed with the City Manager on a form prescribed by the City Manager and shall include the following data and maps:

a. Name and address of the applicant.

b. Statement that the applicant is the owner or authorized agent of the owner of the property on which the use is proposed to be located. This provision shall not apply to a proposed public utility right-of-way.

c. Address and legal description of the property.

d. In the case of a conditional use permit a statement indicating the precise manner of compliance with each of the applicable provisions of this section, together with any other data pertinent to the findings prerequisite to the granting of a use permit, prescribed in subsection 23-19.15.

e. In the case of a variance, a statement of the precise nature of the variance requested and the practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning regulations that would result from a strict or literal interpretation and enforcement of the specified regulation, together with any other data pertinent to the findings prerequisite to the granting of a variance, prescribed in subsection 23-19.11.

f. A list of all owners of property located within three hundred (300) feet of the exterior boundaries of the subject property; the list shall be keyed to a map showing the location of these properties.

g. In the case of a conditional use permit, plot plans and elevations, fully dimensioned and drawn to scale, indicating the type and location of all buildings and structures, parking and landscape areas and signs. Elevation plans shall be of sufficient detail to indicate the type and color of materials to be employed and methods of illumination for signs. Screening, landscape and irrigation plans shall be included.

h. In the case of a variance and zone change, an accurate scale drawing of the site and any adjacent property affected, showing, when pertinent, the contours at intervals of not more than five (5) feet, and all existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking facilities and landscaped areas.

i. The City Manager may require additional information or plans, if they are necessary, to enable a determination as to whether the circumstances prescribed for the granting of a variance, conditional use permit or zone change exist. The City Manager may authorize omission of any or all of the plans and drawings required by this section if they are not necessary.

(Ord. #82-323, § 23)

Sec. 23-19.6. Fees.

The application shall be accompanied by a fee established by resolution or ordinance of the City Council to cover the cost of handling the application as prescribed in this section. In the case of a variance, a single application may include requests for variances from more than one regulation applicable to the same site, or for similar variances on two (2) or more adjacent sites with similar characteristics.

Sec. 23-19.7. Public Hearing.

The City Council shall hold at least one public hearing on each application for variance, conditional use permit or zone change. The hearing shall be set and notice given as prescribed in subsection 23-19.8. At the public hearing, the Council shall review the application and drawings submitted therewith and shall receive pertinent evidence concerning the application, its consistence with the objectives of this Code and the General Plan and conditions under which it would be effectively operated or maintained, particularly with respect to the findings prescribed in subsections 23-19.11 through 23-19.16 as applicable.

Sec. 23-19.8. Public Hearing, Time and Notice.

The City Clerk shall set the time and place of public hearings required by this chapter to be held by the City Council, provided that the Council may change the time or place of a hearing. However, the Council shall hold a public hearing within forty (40) days after the application for an amendment, use permit, or variance has been filed unless the applicant shall consent to an extension of time. Notice of a public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by posting the subject property and posting a public notice in a conspicuous place at the following locations: City Hall, Ralphs Market, Wells Fargo Bank. When the hearing concerns a matter other than an amendment to the text of this chapter, notices of public hearings before the City Council shall be mailed to all persons whose names appear on the latest adopted tax roll of Orange County as owning property within three hundred (300) feet of the exterior boundaries of the property that is the subject of the hearing.

Sec. 23-19.9. Investigation and Report.

The City Manager shall make an investigation of the application and shall prepare a report thereon which shall be submitted to the City Council and made available to the applicant prior to the public hearing.

(Ord. #82-323, § 23)

Sec. 23-19.10. Action of the City Council on Variance or Conditional Use Permit.

Within thirty-one (31) days following the closing of the public hearing on a variance or conditional use permit application, the City Council shall act on the application. The Council may grant by resolution, adopted by at least three (3) affirmative votes, a variance or conditional use permit as it was applied for or in a modified form, or the application may be denied. Variances or use permits may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the Council may prescribe. Conditions may include, but shall not be limited to, requiring special yards, open spaces, buffers, fences, and walls; requiring installation and maintenance of landscaping; requiring street dedications and improvements; regulation of points of vehicular ingress and egress; regulation of traffic circulation; regulation of signs; regulation of hours of operation and methods of operation; control of potential nuisances; prescribing standards of maintenance of buildings and grounds; prescription of development schedules and development standards; and such other conditions as the Council may deem necessary to insure compatibility of the use with surrounding developments and uses and to preserve the public health, safety and welfare. Variances from regulations prescribed elsewhere in the zoning chapter, for fences, walls, hedges, screening and landscaping, site area, width and depth, front, rear and side yards, coverage, height of structures; distances between structures, usable open space, signs, off-street parking facilities or frontage on a public street shall be separately administered in accordance with the procedures in this section.

(Ord. #2004-502, § 2)

Sec. 23-19.11. Findings—Variances.

The City Council or City Manager may grant a variance to a regulation prescribed by this chapter with respect to fences, walls, hedges, screening or landscaping, site area, width or depth, front, rear, or side yards, coverage, height of structures, distances between structures, usable open space, or frontage on a public street, as the variance was applied for in modified form, if, on the basis of application and the evidence submitted, the Council or Manager makes findings of fact that establish that the circumstances prescribed in paragraphs a., b., or c., and in paragraphs d. and e. below do apply.

a. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this chapter.

b. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties in the same zone.

c. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone.

d. That the granting of the variance will not constitute the granting of a special privilege inconsistent with the limitations on other properties classified in the same zone.

e. That the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

(Ord. #82-323, § 23)

Sec. 23-19.12. Signs: Additional Findings.

The City Council may grant a variance to a regulation prescribed by this chapter with respect to signs as the variance was applied for or in modified form if, on the basis of the application and the evidence submitted, the Council makes findings of fact that establish that the circumstances prescribed in subsection 23-19.11 apply and the following circumstances also apply:

a. That the granting of the variance will not detract from the attractiveness or orderliness of the City's appearance or the surrounding neighborhood.

b. That the granting of the variance will not create a hazard to public safety.

Sec. 23-19.13. Parking: Additional Findings.

The City Council may grant a variance to a regulation prescribed by this chapter with respect to off-street parking facilities as the variance was applied for or in modified form if, on the basis of the application and the evidence submitted, the Council makes findings of fact that establish that the circumstances prescribed in subsection 23-19.11 apply and the following circumstances also apply:

a. That neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation.

b. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.

c. That the granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of this chapter.

Sec. 23-19.14. TV Reception Antennae: Additional Findings.

A variance shall be obtained prior to the installation of any antenna and supporting mast or tower which would not be in compliance with the regulations set forth in subsection 23-6.8d, which is limited to television reception only.

Granting of a variance shall be based on findings that the height restriction of this Code would impair the ability to receive the normal television reception as a result of special circumstances applicable to the property, including size, shape, topography, location, or surroundings and strict application of the Code would deprive the property from the privileges enjoyed by other property in the City.

Sec. 23-19.15. Findings—Conditional Use Permit.

The City Council or City Manager shall make the following findings before granting a conditional use permit:

a. That the proposed location of the conditional use is in accord with the objectives of this Code and the purpose of the zone in which the site is located.

b. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

c. That the proposed conditional use will comply with each of the applicable provisions of this Code, except for approved variances.

d. With regard to antennae, supporting masts or towers, the granting of a conditional use permit shall be conditioned so that it will terminate on the sale or transfer of ownership of the property by the applicant.

(Ord. #82-323, § 23)

Sec. 23-19.16. Zone Change.

The City Council may grant or deny applications for a zone change in accordance with state law. Any zone change shall be enacted by ordinance and shall be consistent with the General Plan.

(Ord. #2004-502, § 3)

Sec. 23-19.17. Effective Date of Variance, Use Permit and Zone Change.

A variance and use permit shall become effective immediately after it is granted by the City Council. A zone change requires first and second reading of an ordinance which shall become effective thirty (30) days after final reading.

Sec. 23-19.18. Change of Zoning Map.

A change in zone boundaries shall be indicated by listing on the zoning map the number of the ordinance amending the map.

Sec. 23-19.19. Lapse of Variance or Conditional Use Permit.

a. A variance or conditional use permit shall lapse and shall become void one (1) year following the date on which the variance or use permit became effective, unless prior to the expiration of one (1) year, a building permit is issued, or a certificate of occupancy is issued for the structure which was the subject of the application, or the site is occupied if no building permit or certificate of occupancy is required, provided that a use permit for a public utility installation may be valid for a longer period if specified by the City Council.

b. A variance or use permit may be renewed for an additional period of one (1) year provided that prior to the expiration of one (1) year from the date when it or the renewal of same became effective, an application for renewal of the variance is filed with the City Manager.

c. The City Council may grant or deny an application for renewal of a variance or use permit.

(Ord. #82-323, § 23; Ord. #2015-595, § 3)

Sec. 23-19.20. Pre-Existing Conditional Uses.

a. A conditional use legally established prior to the effective date of this chapter or prior to the effective date of subsequent amendments to the regulations or zone boundaries, shall be permitted to continue, provided that it is operated and maintained in accord with the conditions prescribed at the time of its establishment, if any.

b. Alteration or expansion of a pre-existing conditional use shall be permitted only upon the granting of a use permit as prescribed in this section, provided that alterations not exceeding two thousand five hundred ($2,500.00) dollars in value as determined by the Building Official shall be permitted without the granting of a conditional use permit.

c. A conditional use permit shall be required for the reconstruction of a structure housing a pre-existing conditional use if the structure is destroyed by fire or other calamity, by act of God or by the public enemy to a greater extent than fifty (50) percent. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the City Engineer and Building Official and shall be based on the minimum cost of construction in compliance with the Building Code.

Sec. 23-19.21. Modification of Conditional Use.

Subsections 23-19.5 through 23-19.10 shall apply to an application for modification, expansion, or other change in a conditional use, provided that minor revisions or modifications may be approved by the City Manager if he determines that the changes would not affect the findings prescribed in subsection 23-19.15.

(Ord. #82-323, § 23)

Sec. 23-19.22. Suspension and Revocation.

Upon violation of any applicable provision of this Chapter, or, if granted subject to conditions, upon failure to comply with conditions, a variance or conditional use permit shall be suspended automatically. The City Council shall hold a public hearing within forty (40) days, in accordance with the procedure prescribed in subsection 23-19.7, and if not satisfied that the regulation, general provision, or condition is being complied with, by at least three (3) affirmative votes, may revoke the variance or conditional use permit or take such action as may be necessary to ensure compliance with the regulation, general provision, or condition. The decision of the Council revoking a variance shall become effective fifteen (15) days following the date on which it was revoked.

(Ord. #2004-502, § 4)

Sec. 23-19.23. New Application.

Following the denial or revocation of a variance, conditional use permit or zone change application, no application for the same or substantially the same variance, use permit or zone change on the same or substantially the same site shall be filed within one year of the date of denial or revocation of same.

Sec. 23-19.24. Variance and Use Permit Related to Plans Submitted.

Unless otherwise specified at the time a variance or conditional use permit is granted, it shall apply only to the plans and drawings submitted as part of the application.

Sec. 23-19.25. Conditional Use Permit to Run With the Land.

A conditional use permit granted pursuant to the provisions of this section shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the conditional use permit application.

Sec. 23-19.26. Conditional Use Permit and Change of Zone Filed Concurrently.

Application for a conditional use permit may be made at the same time as application for a change in zone boundaries including the same property, in which case the City Council shall hold the public hearing on the zoning reclassification and the use permit at the same meeting and may combine the two (2) hearings. For the purposes of this subsection, the date of the Council decision on the use permit application shall be the same as the date of enactment by the City Council of an ordinance changing the zone boundaries.

## ARTICLE 23-20. ADJUSTMENT

Sec. 23-20.1. Purpose.

The purpose of this section is to grant authority to the City Manager to take action on requests for minor modifications or adjustments to certain requirements of the zoning chapter when such requests constitute a reasonable use of property not permissible under a strict literal interpretation of the regulations.

Sec. 23-20.2. Authority of the City Manager.

The City Manager is authorized to approve requests for an adjustment. An adjustment is any variance to the terms or requirements of the zoning chapter which, if granted, would result in a decrease of not more than twenty-five (25) percent of the required rear or side yard setback.

(Ord. #82-323, § 23)

Sec. 23-20.3. Applications, Data and Maps.

Application for an adjustment shall be filed with the City Manager on a form prescribed by the City Manager and shall include the following data and maps:

a. Name and address of the applicant.

b. Statement that the applicant is the owner or the authorized agent of the owner of the property on which the adjustment is being requested.

c. Address and legal description of the property.

d. Statement of the precise nature of the adjustment.

e. An accurate scale drawing of the site and any adjacent property affected, showing all existing and proposed property lines, locations of structures, parking areas, driveways, other improvements or facilities and landscaped areas.

f. Other plans, drawings or information which the City Manager deems necessary to enable proper consideration of the application.

(Ord. #82-323, § 23)

Sec. 23-20.4. Fees.

The application shall be accompanied by a fee established by ordinance or resolution of the City Council to cover the cost of handling the application as prescribed in this section. A single application may include requests for adjustments from more than one regulation applicable to the same site, or for similar adjustments on two (2) or more adjacent sites having the same characteristics.

Sec. 23-20.5. Action by the City Manager, Public Meeting.

The City Manager or his designee shall hold a public meeting on an application for an adjustment. At the public meeting, the City Manager shall review the application, statements and drawings submitted and the results of his own investigation of the property involved and surrounding area and conditions. At the public meeting the City Manager shall act on the application and may approve the application as submitted or in modified form, or the application may be denied. An adjustment may be granted subject to such conditions as the City Manager may prescribe.

(Ord. #82-323, § 23)

Sec. 23-20.6. Findings.

In granting an adjustment, the City Manager shall make findings of fact that establish that the circumstances necessary for granting a variance, as prescribed in the zoning chapter, do apply.

(Ord. #82-323, § 23)

Sec. 23-20.7. Landscape and Fence Plan Review.

The City Manager is authorized, after consultation with the City Engineer and a designated member of the City Council, to review and approve all required landscape plans and fence plans.

(Ord. #82-323, § 23)

Sec. 23-20.8. Effective Date of City Manager Decisions and Appeal to City Council.

Decisions of the City Manager relative to adjustments, landscape and fence plan reviews, Article 23-16 (Signs), and Article 23-17 (Recreational Court Fencing and Lighting) shall not become effective until fifteen (15) days after the decision; such decisions may be appealed to the City Council by any interested or affected person by filing a letter of appeal with the City Manager within fifteen (15) days of the decision. The letter of appeal should state in writing the reasons for the appeal.

Within fifteen (15) days of receipt of the appeal, the City Manager shall transmit to the City Clerk the letter of appeal and copies of the application and all other papers and documents constituting the record upon which the City Manager made his decision. An appeal shall be accompanied by a fee established by ordinance of the City Council to cover the cost of processing the appeal. The City Council shall hold at least one (1) public meeting on a decision of the City Manager which has been appealed. The meeting shall be held within forty (40) days of the appeal and the time and place of the hearing shall be set by notice given as prescribed by law. The City Council shall render a decision on an appeal within thirty-one (31) days following the closing of the public meeting on the appeal. The City Council may affirm, reverse, or modify a decision of the City Manager. The decision of the City Council shall be final.

(Ord. #82-323, § 23)

## ARTICLE 23-21. CONSISTENCY WITH COUNTY HAZARDOUS WASTE MANAGEMENT PLAN

All applicable zoning, conditional use permit and variance decisions and determinations by the City shall be consistent with the applicable portions of the approved County of Orange Hazardous Waste Management Plan which identify general areas or siting criteria for hazardous waste facilities.

(Ord. #92-405, § 1)

## ARTICLE 23-22. ACCESSORY DWELLING UNITS[[4]](#footnote-4)

Sec. 23-22.1. Purpose and Intent.

In accordance with California Government Code §§ 65852.1, 65852.2, and 65852.22, the City intends for this article to provide for the creation of accessory dwelling units on properties zoned for residential and mixed use. The purpose of this article is to provide for additional housing opportunities for development of low- and moderate-income housing for the community in keeping with the Housing Element of the Villa Park General Plan and State law.

(Ord. #2023-629, § 3)

Sec. 23-22.2. General Provisions.

a. The following definitions shall apply to this Article:

1. "*Accessory dwelling unit*" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one (1) or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(a) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(b) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

2. "*Accessory structure*" means a structure that is accessory and incidental to a dwelling located on the same lot.

3. "*Junior accessory dwelling unit*" means a unit that is at least one hundred fifty (150) square feet and no more than five hundred (500) square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure.

4. "*Living area*" means the interior habitable area of a dwelling unit, including basements and attics but does not include a garage or any accessory structure.

5. "*Passageway*" means a pathway that is unobstructed clear to the sky and extends from a street to one (1) entrance of the accessory dwelling unit.

6. "*Proposed dwelling*" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

7. "*Public transit*" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes.

8. "*Tandem parking*" means that one (1) or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

b. An accessory dwelling unit that conforms to the requirements of this Article shall not be considered to exceed the allowable density for the lot upon which such unit is proposed to be established and shall be deemed a residential use that is consistent with the existing general plan and zoning designations for the lot.

c. In accordance with State law, this Article shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(Ord. #2023-629, § 3)

Sec. 23-22.3. Ministerial Review.

Applications for accessory dwelling units that are consistent with the provisions of this Article will be considered as ministerial actions requiring the issuance of a building permit. The Planning Department shall approve or disapprove an application for an accessory dwelling unit permit within sixty (60) days after receiving the complete application except when the accessory dwelling unit is proposed in conjunction with a proposed new single-family dwelling unit, in which case the Planning Department may delay acting on the accessory dwelling unit until the single-family dwelling is approved. If the applicant requests a delay, the sixty-day time period shall be tolled for the period of the delay. A building permit shall only be issued upon finding that the plan for the accessory dwelling unit complies with all requirements of this Article.

(Ord. #2023-629, § 3)

Sec. 23-22.4. Applicability.

The applicant for an accessory dwelling unit shall be the owner of the primary dwelling of the lot on which the accessory dwelling unit is proposed to be established, or his/her/their authorized agent. Additionally, the lot on which the accessory dwelling unit is proposed to be established shall:

a. Be located in a zoning district allowing for residential dwelling units.

b. Contain, or propose to establish, one (1) residential dwelling unit, which is the primary dwelling, and which conforms to all applicable zoning regulations for the zoning district in which the lot is located except as modified herein. However, per State law, between January 1, 2020 and January 1, 2025, the City shall not require the correction of nonconforming zoning issues as a condition for approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit.

c. Have no more than one (1) accessory dwelling unit and one (1) junior accessory dwelling unit located on it at any time.

(Ord. #2023-629, § 3)

Sec. 23-22.5. Standards and Criteria for Accessory Dwelling Units within Existing Structures.

a. The following standards and criteria shall apply to all accessory dwelling units to be located within the proposed or existing space of a single-family dwelling, or within existing accessory structures, including garages, storage areas, or similar uses:

1. The accessory dwelling unit is located within the proposed space of a new single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than one hundred fifty (150) square feet beyond the physical dimensions as of the existing structure to accommodate ingress and egress only;

2. Maintains independent exterior access from the proposed or existing single-family dwelling;

3. Maintains sufficient side and rear setbacks for fire and safety as determined by the Building Official. No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.

(Ord. #2023-629, § 3)

Sec. 23-22.6. Standards and Criteria for Accessory Dwelling Units.

The following standards and criteria shall apply to all proposed accessory dwelling units. Notwithstanding these requirements, all residential lots shall be permitted to develop at least one (1) attached or detached accessory dwelling unit.

a) Location on Lot. An accessory dwelling unit may be permanently attached or detached from the primary dwelling.

b) Height, Setback, and Building Separation. Unless otherwise specified in this Article, an accessory dwelling unit, including conversion of existing space within a primary dwelling, shall comply with the height, setback, and building separation standards of the applicable zoning district in which the lot is located.

c) Size Limitations and Lot Coverage.

1. Accessory dwelling units shall not exceed the following size restrictions:

(a) For properties under one (1) acre in size, one thousand two hundred (1,200) square feet for detached accessory dwelling units. One thousand two hundred (1,200) square feet for attached accessory dwelling units, or fifty (50) percent of the primary unit, whichever is less.

(b) For properties one (1) acre and larger in size, one thousand five hundred (1,500) square feet for detached accessory dwelling units. One thousand five hundred (1,500) square feet for attached accessory dwelling units, or fifty (50) percent of the primary unit, whichever is less.

(c) Five hundred (500) square feet for junior accessory dwelling units.

(d) Attached ADUs shall be subject to relevant zoning height restrictions. Detached one (1) story ADUs shall be no taller than sixteen (16) feet in height, however ADUs within one-half (½) mile walking distance of a major transit stop or high-quality transit corridor may be permitted to a height of eighteen (18) feet, including ADUs with a roof pitch matching the existing or proposed primary dwelling unit.

(e) Two (2) story detached ADUs shall be permitted to a maximum roof height of thirty (30) feet.

(f) Roof overhangs for detached ADUs may project up to thirty (30) inches into any required setback area.

2. Accessory dwelling units shall be a minimum of one hundred fifty (150) square feet.

3. ADUs eight hundred (800) square feet and smaller shall not count towards lot coverage or FAR requirements. ADUs exceeding eight hundred (800) square feet in size shall count towards lot coverage and FAR requirements for their applicable zone.

d. Parking. One (1) parking space shall be required for attached and single story detached accessory dwelling units. Existing parking may count toward this requirement, and the parking space may be provided as tandem parking on a driveway. One (1) additional parking space shall be required for detached two-story accessory dwelling units. Notwithstanding this parking requirement, the City shall not impose parking standards for an accessory dwelling unit in any of the following instances:

1. The accessory dwelling unit is located within one-half (½) mile walking distance of public transit.

2. The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

3. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

4. When there is a car share vehicle located within one (1) block of the accessory dwelling unit.

Additionally, when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, no off-street replacement parking spaces shall be required.

e. Setbacks. All attached accessory dwelling units shall maintain the front yard setback for the applicable zoning district in which the lot is located. Attached ADUs and single story detached ADUs shall maintain a minimum four-foot setback on the side and rear yards for an accessory dwelling unit not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure. Two story detached accessory dwelling units shall maintain a ten-foot side and rear yard setback. All detached ADUs shall maintain fifty-foot front yard setbacks, however the front yard setback shall not unduly constrain the creation of ADUs. The Planning Department shall determine if a front yard setback is unduly constraining the creation of an ADU.

f. Same owner-occupancy requirements shall not be required as provided by California Government Code Section 65852.2.

g. Rental Term. No portion of a property containing an accessory dwelling unit may be rented for a term of less than thirty (30) days.

h. Mobile Homes/Recreational Vehicles. Neither the primary dwelling nor the proposed accessory dwelling unit shall be a mobile home or recreational vehicle, unless as otherwise specified herein.

i. Exterior Design. The design of the accessory dwelling unit, including, but not limited to, building form, materials, exterior finishes, color scheme, and landscaping shall be substantially similar to the primary dwelling.

j. Unless otherwise specified by this Article or State law, accessory dwelling units shall comply with all provisions of the underlying zoning district and all regulations required for the primary single-family dwelling unit, including but not limited to all applicable building and construction requirements. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

k. An address shall be obtained for all new ADUs separate from the main dwelling, with the exception of junior ADUs.

l. Sale of ADUs. The City of Villa Park does not allow the separate sale of ADUs under AB 1033.

(Ord. #2023-629, § 3; Ord. #2023-630, § 2)

Sec. 23-22.7. Standards and Criteria for Junior Accessory Dwelling Units.

The following requirements shall apply to junior accessory dwelling units:

a. Only one (1) junior accessory dwelling unit may be constructed per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.

b. Same owner-occupancy shall not be required in the single-family residence in which the junior accessory dwelling unit will be permitted.

c. A junior accessory dwelling unit may only be permitted to be constructed within the walls of a proposed or existing residence.

d. A junior accessory dwelling unit shall include a separate entrance from the main entrance to the proposed or existing residence.

e. A junior accessory dwelling unit shall include an efficiency kitchen, which shall include all of the following:

1. A cooking facility with appliances.

2. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

f. No additional parking is required for a junior accessory dwelling unit.

g. The following are perpetual requirements that run with the land, and a restrictive covenant establishing the following requirements shall be recorded, with proof of recordation presented to the Planning Department, prior to issuance of a final building permit for the junior accessory dwelling unit:

1. A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future owners.

2. A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this Article.

(Ord. #2023-629, § 3; Ord. #2023-630, § 2)

Sec. 23-22.8. Fees.

a. Accessory dwelling units shall not be considered to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities unless the accessory dwelling unit was constructed with a new single family dwelling.

b. The City shall not impose any impact fee upon the development of an accessory dwelling unit that is less than seven hundred fifty (750) square feet in size. Any impact fees charged for an accessory dwelling unit of seven hundred fifty (750) square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

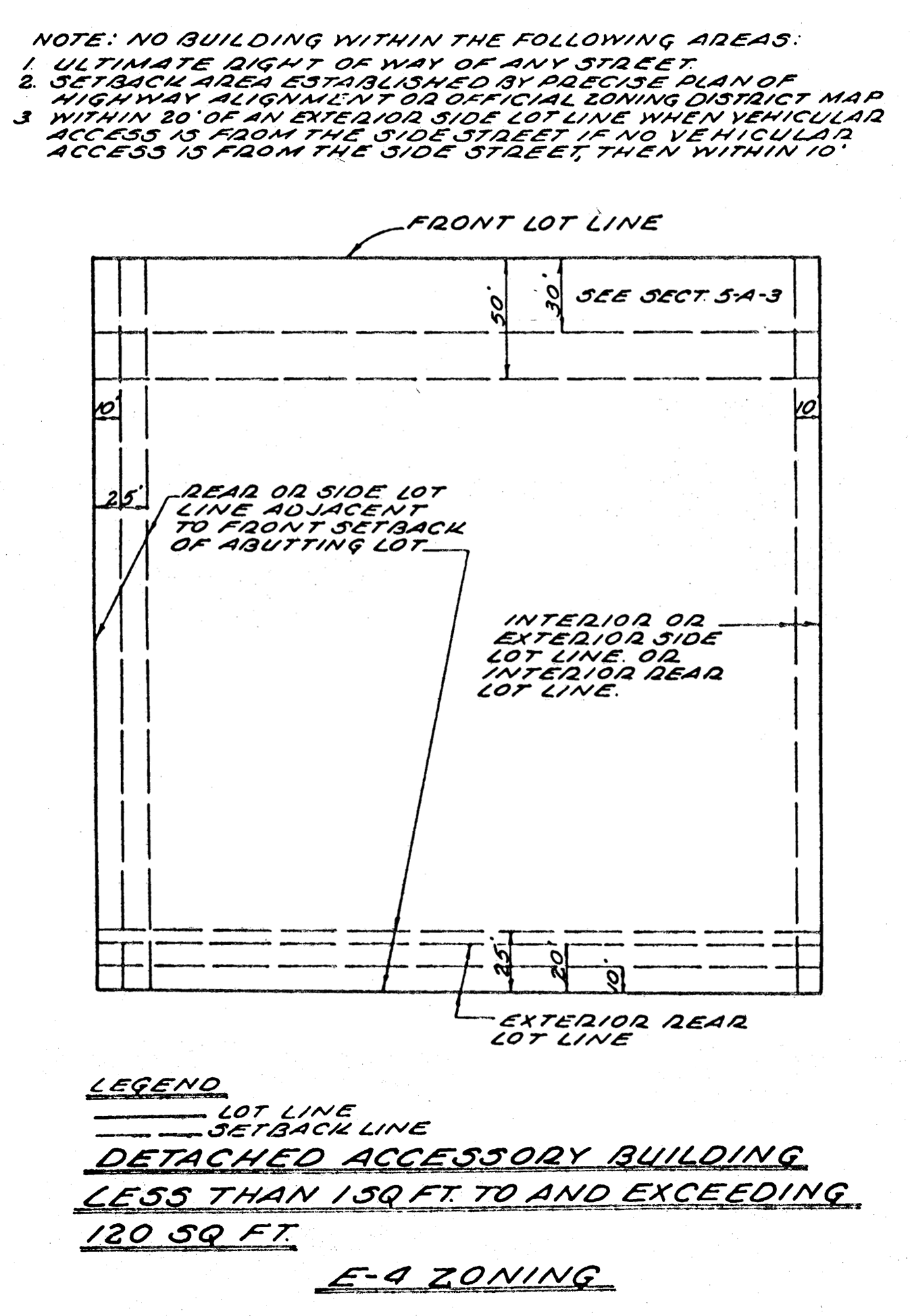
c. The Planning Department shall waive all planning processing and building plan check fees for an accessory dwelling unit or junior accessory dwelling unit in any of the following situations:

1. The applicant voluntarily records a perpetual restrictive covenant running with the land that establishes that the owner of the property on which the accessory dwelling unit and/or junior accessory dwelling unit is located shall reside in one (1) of the dwelling units on the property as the principal residence as long as the condition of the accessory dwelling unit and/or junior accessory dwelling unit remains on the property. This covenant shall be recorded, with proof of recordation presented to the Planning Department, prior to issuance of a final building permit for the accessory dwelling unit.

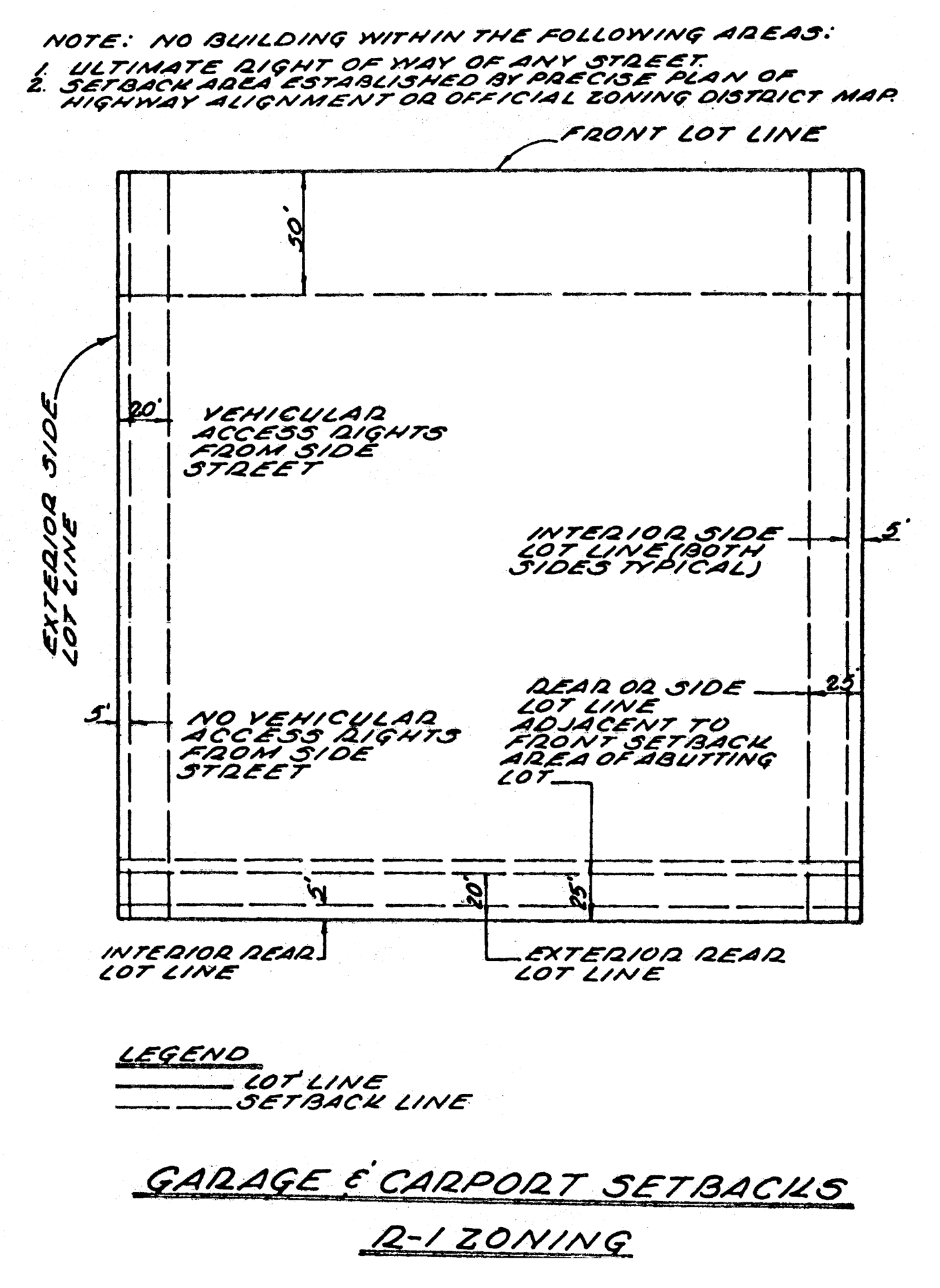
2. When an existing garage or carport is converted to an accessory dwelling unit and/or junior accessory dwelling unit and the applicant voluntarily provides replacement parking spaces for at least two (2) on-site covered parking spaces for the primary residence in conformance with Article 23-15.

(Ord. #2023-629, § 3)

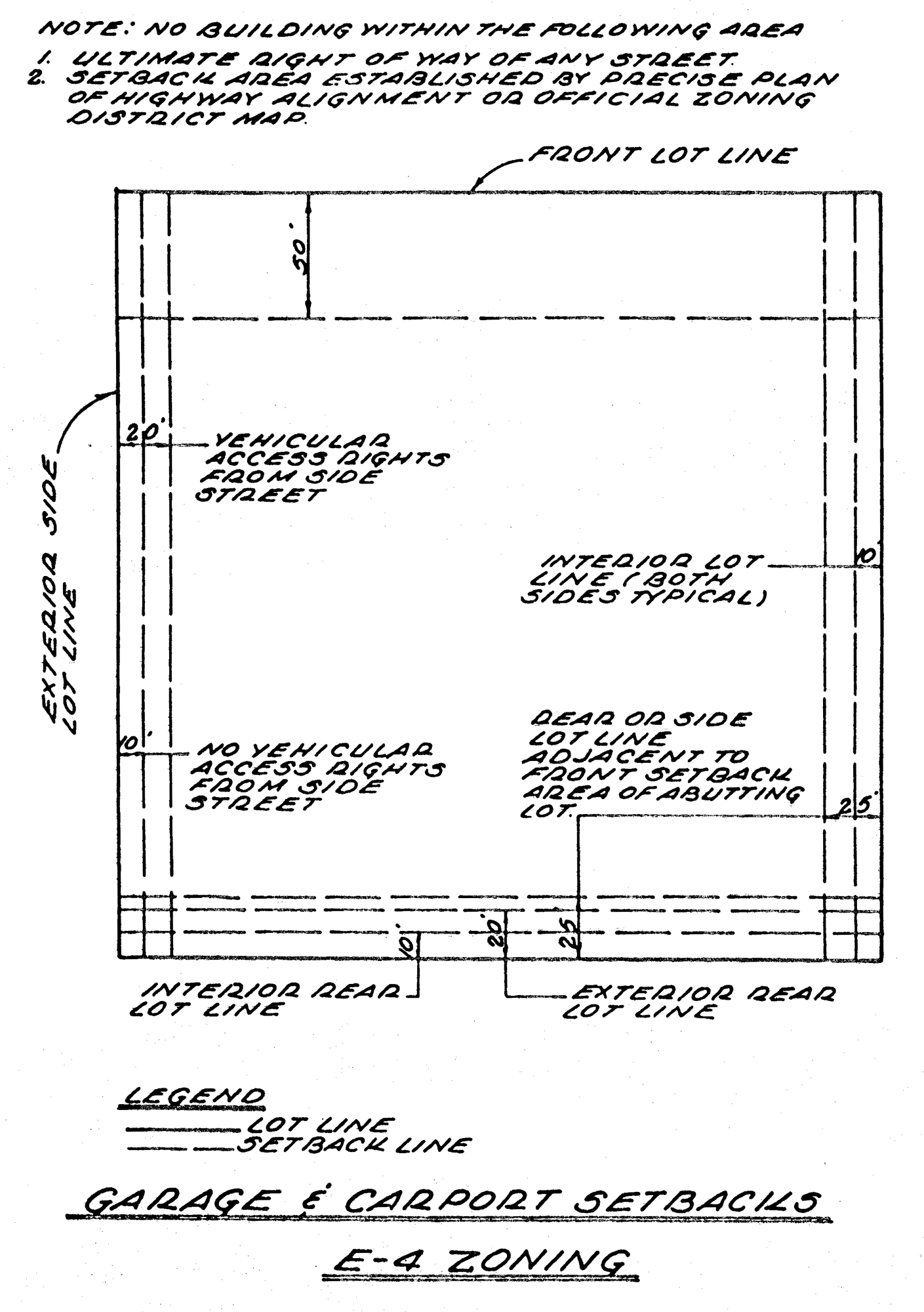
R-1 Zoning Illustration



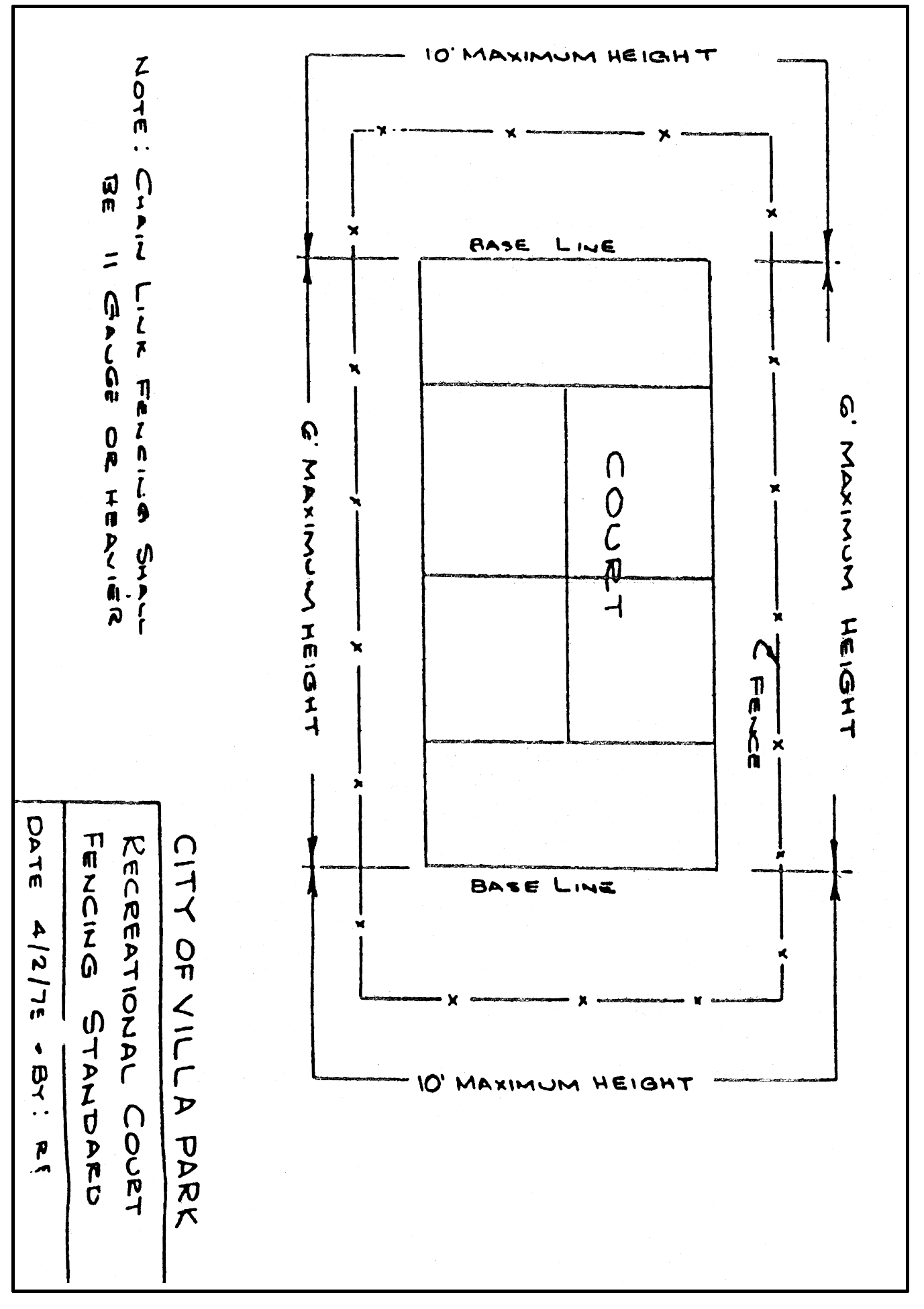
E-4 Zoning Illustration



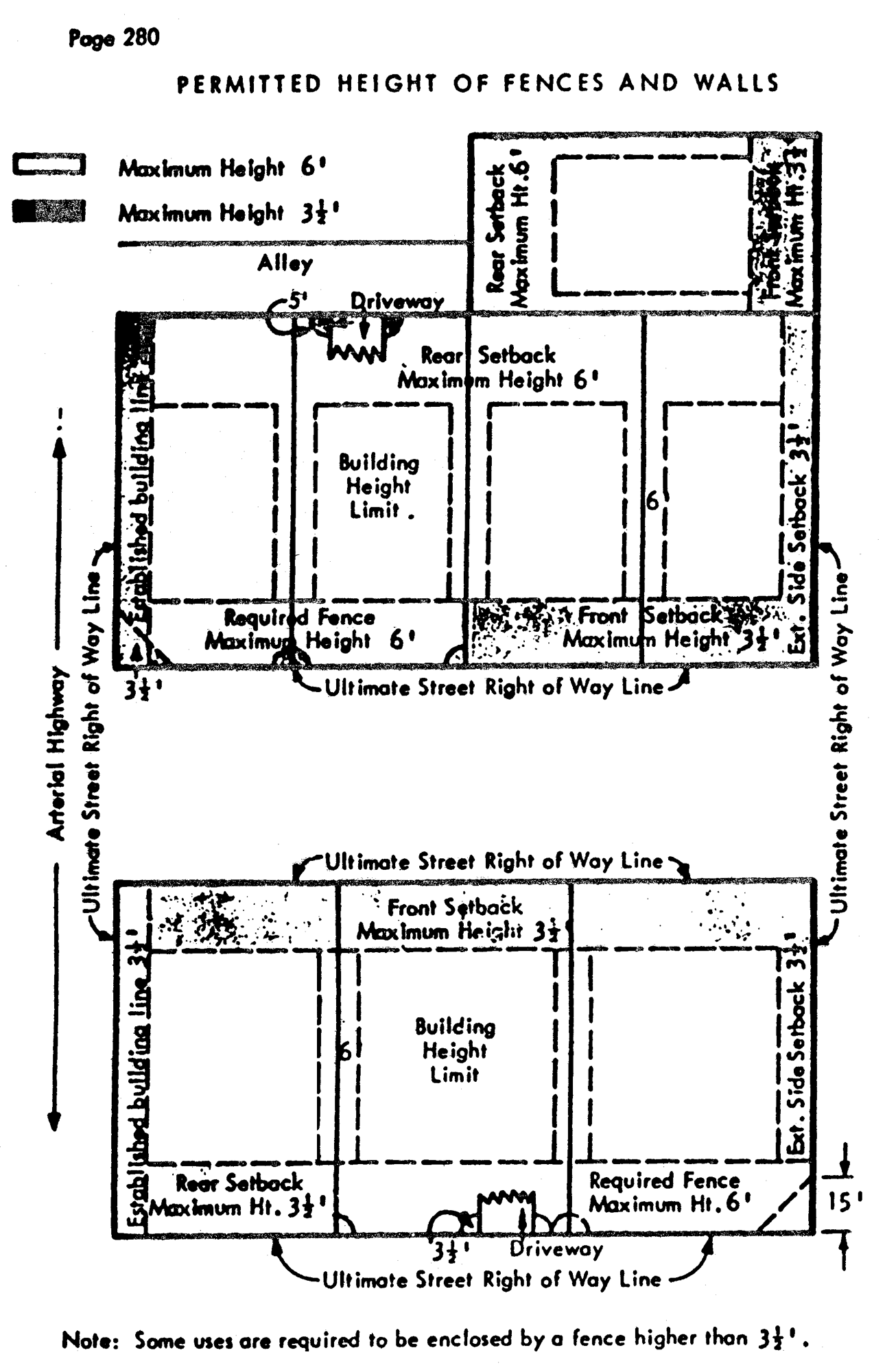
R-1 Zoning Illustration



E-4 Zoning Illustration



Recreational Court Fencing Standards



Permitted Height of Fences and Walls

## ARTICLE 23-23. SITE PLAN REVIEW

Sec. 23-23.1. Purpose.

The site plan review procedure enables the Planning Director to check development proposals for conformity with the provisions of this article and for the manner in which they are applied, when no other application is required under this title.

(Ord. #2002-482, § 9; Ord. #2005-515, § 1)

Sec. 23-23.2. Application.

a. Unless otherwise specified in this article, a site plan review application shall be required for all new development. The applicant shall submit the site plan review application to the Planning Director and shall pay a fee as established by resolution of the City Council. If, after review, it is determined by the Planning Director that the development is required to be processed with a Conditional Use Permit or Variance, the fee paid by the applicant shall be applied to any application required under a Conditional Use Permit or Variance. The Planning Director shall determine the number of site plan copies required.

b. No building or grading permit shall be issued until all applicable site plans have been approved in accordance with this section and no building permit shall be finalized or certificate of occupancy issued unless the development complies with the approved site plan as conditioned.

c. The site plan shall indicate the following information clearly and with full dimensions, unless the Planning Director waives the requirement for particular information:

1. Lot dimensions;

2. The location, size, height, proposed use and location of doors on all buildings and structures;

3. Yards and space between buildings;

4. The location, height and materials of walls, fences, and landscaping;

5. The location, dimensions of parking area, number of spaces, arrangement of spaces, and internal circulation pattern of off-street parking;

6. Pedestrian, vehicular and service access and definitions of all points of ingress and egress;

7. The location, size, height and method of illumination of signs;

8. The location, dimensions, number of spaces, internal circulation and access from public streets of loading facilities;

9. The general nature, location, and hooding devices of lighting;

10. Proposed street dedications and improvements;

11. Landscaping, if required by the provisions of this Article;

12. The type, location, and height of screen devices of outdoor storage and activities, if permitted in the zone;

13. Drainage and grading;

14. Waste disposal facilities;

15. Location of utility poles;

16. Location of any easements;

17. Elevations from which to determine architectural style; and

18. Such other data as may be required by the Planning Director to assist in review of the plan.

(Ord. #2002-482, § 9; Ord. #2005-515, § 1)

Sec. 23-23.3. Review.

a. Unless otherwise specified in this article, the site plan shall be reviewed by the Planning Director for conformity with the provisions of this Article.

b. The Planning Director shall review each application for conformity with applicable Villa Park Municipal Code provisions.

c. The Planning Director shall review each application for architectural considerations in order to preserve the architectural integrity of a predominant style and/or to consider compatibility with surrounding homes within a neighborhood. The Planning Director may seek third party advice or counsel, to include subcommittees as created by the City Council, to determine architectural integrity and that the style is compatible with the predominant style of the subject neighborhood. When this chapter or any other provision of law requires a ministerial review process, the review of architectural style and neighborhood compatibility shall be limited to a determination whether the materials and design of the proposed structure would substantially comply with applicable design standards and shall not constitute a "project" for purposes of Section 21000 et seq. of the Public Resources Code.

d. If the proposal, with any changes noted by the City, is fully consistent with the provisions of this Article, the Planning Director or a staff member, authorized by the Director, shall sign the site plan to indicate site plan review approval and shall notify the applicant of such.

e. If the proposal, as determined by the Planning Director, is not consistent with the provisions and intent of this Article, the Planning Director shall request modifications as deemed necessary in order to conform the application to said Article. Noncompliance by the applicant shall be deemed as a withdrawal of the Site Plan Review Application.

(Ord. #2005-515, § 1; Ord. #2018-608, § 3)

Sec. 23-23.4. Appeal to City Council.

a. A Site Plan Review Application determined to require modifications for architectural consideration may be appealed to the City Council.

b. As set by City Council resolution, a fee shall be paid and an application for appeal shall be made within ten (10) calendar days of the request for modification by the Planning Director.

(Ord. #2005-515, § 1)

Sec. 23-23.5. Public Hearing.

The City Council shall hold at least one (1) public hearing on each application for appeal. The hearing shall be set and notice given as prescribed in subsection 23-23.6. At the public hearing, the Council shall review the application and drawings submitted therewith and shall receive pertinent evidence concerning the application, its consistency with the objectives of this Code and the General Plan, and conditions under which it would preserve the architectural integrity of a predominant style and/or compatibility with surrounding homes within a neighborhood, particularly with respect to the findings prescribed in subsection 23-23.8.

(Ord. #2005-515, § 1)

Sec. 23-23.6. Public Hearing, Time and Notice.

The City Clerk shall set the time and place of public hearings required by this chapter to be held by the City Council, provided that the Council may change the time or place of a hearing. However, the Council shall hold a public hearing within forty (40) days after the application for an appeal has been filed unless the applicant shall consent to an extension of time. Notice of a public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by posting the subject property and posting a public notice in a conspicuous place at City Hall. When the hearing concerns a matter other than an amendment to the text of this Chapter, notices of public hearings before the City Council shall be mailed to all persons whose names appear on the latest adopted Tax Roll of Orange County as owning property within three hundred (300) feet of the exterior boundaries of the property that is the subject of the hearing.

(Ord. #2005-515, § 1)

Sec. 23-23.7. Action of the City Council on Appeals.

Within thirty-one (31) days following the closing of the public hearing on an appeal application, the City Council shall act on the application. The Council may grant by resolution, adopted by at least three (3) affirmative votes, a Site Plan Review as it was applied for or in a modified form, or the application may be denied. Appeals may be granted subject to such conditions as the Council may deem necessary to insure the preservation of the architectural integrity of a predominant style and/or compatibility with surrounding homes within a neighborhood, compatibility of the use with surrounding developments and uses, and to preserve the public health, safety and welfare.

(Ord. #2005-515, § 1)

Sec. 23-23.8. Findings—Site Plan Review Appeals.

The City Council may grant an appeal prescribed by this Chapter if, on the basis of application and the evidence submitted, the Council makes findings of fact that establish that the circumstances prescribed in paragraphs a., b., or c. below do apply.

a. The architectural integrity of an established neighborhood is not diminished or substantially changed based on the proposed application.

b. The proposed development is in general conformity with the predominant style or is reasonably compatible with a theme of styles present in the neighborhood.

c. The neighborhood is deemed to be of transitory nature in which the proposed architectural style, if reasonably believed to be replicated within the neighborhood, may lead to a subsequent predominant style.

(Ord. #2005-515, § 1)

## ARTICLE 23-24. URBAN LOT SPLITS AND TWO-UNIT DEVELOPMENTS PURSUANT TO CALIFORNIA SENATE BILL 9 (SB 9)

Sec. 23-24.1. Urban Lot Splits Pursuant to SB 9.

Sec. 23-24.1.1. Purpose.

The purpose of this article is to allow and appropriately regulate urban lot splits in accordance with California Government Code Section 66411.7.

(Ord. #2022-624, § 4)

Sec. 23-24.1.2. Definition.

An "*urban lot split*" means the subdivision of an existing, legally subdivided lot into two (2) lots in accordance with the requirements of this article.

(Ord. #2022-624, § 4)

Sec. 23.24.1.3. Application.

A. Only individual property owners may apply for an urban lot split. "Individual property owner" means a person holding fee title individually or jointly in the person's own name or a beneficiary of a trust that holds fee title. "Individual property owner" does not include any corporation or corporate person of any kind (partnership, LP, LLC, C corp, S corp, etc.) except for a community land trust (as defined by Revenue and Tax Code § 402.1(a)(11)(C)(i)) or a qualified nonprofit corporation (as defined by § 214.15).

B. An application for an urban lot split shall be submitted on the city's approved form.

C. The applicant shall provide evidence to the city that the subject lot has been legally subdivided as part of the application submittal.

D. Only a complete application will be considered. The city will inform the applicant in writing of any incompleteness within thirty (30) days after the application is submitted.

(Ord. #2022-624, § 4)

Sec. 23-24.1.4. Approval.

A. An application for a parcel map for an urban lot split is approved or denied ministerially by the City Engineer, without discretionary review.

B. A tentative parcel map for an urban lot split is approved ministerially, if it complies with all of the requirements of this article. The tentative parcel map may not be recorded. A final parcel map is approved ministerially as well, but not until the individual property owner demonstrates that the required documents have been recorded, such as the deed restriction and easements. The tentative parcel map expires three (3) months after approval, if not recorded.

C. The approval shall require the individual property owner and applicant to hold the city harmless from all claims and damages related to the approval and its subject matter.

D. The approval shall require the individual property owner and applicant to reimburse the city for all costs of enforcement, including attorneys' fees and costs associated with enforcing the requirements of this article.

(Ord. #2022-624, § 4)

Sec. 23-24.1.5. Requirements.

An urban lot split shall satisfy each of the following requirements:

A. *Subdivision Map Act Compliance.*

1. The urban lot split shall conform to all applicable objective requirements of the Subdivision Map Act (Government Code § 66410 et. seq., "SMA"), including implementing requirements in this article, except as otherwise expressly provided in this section.

2. If an urban lot split violates any part of the SMA, the city's subdivision regulations, including this section, or any other legal requirement:

a. The buyer or grantee of a lot that is created by the urban lot split has all the remedies available under the SMA, including but not limited to an action for damages or to void the deed, sale, or contract.

b. The city has all the remedies available to it under the SMA.

3. Notwithstanding Section 66411.1 of the SMA, no dedication of rights-of-way or construction of offsite improvements is required for an urban lot split.

B. *Zone.* The lot to be split shall be located in the single-family residential zones.

C. *Lot Location.* The lot to be split shall not located on a site that is described by any of the subparagraphs of the California Government Code Section 65913.4(a)(6)(B)-(K).

D. *No Prior Lot Split.*

1. The lot to be split was not established through a prior urban lot split.

2. The lot to be split is not adjacent to any lot that was established through a prior urban lot split by the individual property owner of the lot to be split or by any person acting in concert with the individual property owner.

E. *No Impact on Protected Housing.*

1. Housing that is income-restricted for households of moderate, low, or very low income or housing that is subject to any form of rent or price control through a public entity's valid exercise of its policy power.

2. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Government Code §§ 7060—7067.7) at any time in the fifteen (15) years prior to submission of the urban lot split application.

3. Housing that has been occupied by a tenant in the last three (3) years. The applicant and the owner of a property for which an urban lot split is sought must provide a sworn statement as to this fact with the application for the parcel map. The city may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including but not limited to, surveying the owners of nearby properties; and the city may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.

F. *Lot Size.*

1. The lot to be split shall be a minimum of two thousand four hundred (2,400) square feet in size.

2. The resulting lots shall each be a minimum of one thousand two hundred (1,200) square feet in size.

3. Each of the resulting lots shall be between sixty (60) percent and forty (40) percent of the original lot area.

G. *Easements.*

1. The individual property owner shall enter into an easement agreement with each public service provider to establish easements that are sufficient for the provision of public services and facilities to each of the resulting lots.

2. Each easement shall be shown on the tentative parcel map.

3. Copies of the unrecorded easement agreements shall be submitted with the application. The easement agreements shall be recorded against the property prior to the final map is approved.

H. *Lot Access.* Each resulting lot shall have access to or adjoin the public right-of-way and each shall have at least ten (10) feet of frontage on a public right-of-way.

I. *Separate Conveyance.*

1. *Within a resulting lot.*

a. Primary dwelling units on a lot that is created by an urban lot split may not be owned or conveyed separately from each other.

b. Condominium airspace divisions and common interest developments are not permitted on a lot that is created by an urban lot split.

c. All fee interest in a lot and all dwelling units on the lot shall be held equally and undivided by all individual property owners.

2. *Between resulting lots.* Separate conveyance of the resulting lots is permitted. If dwelling units or other structures (such as garages) on different lots are adjacent or attached to each other, the urban lot split boundary may separate them for conveyance purposes if the structures meet building code safety standards and are sufficient to allow separate conveyance. If any attached structures span or will span the new lot line, the owner shall record appropriate CC&Rs, easements, or other documentation that are necessary to allocate rights and responsibilities between the owners of the two lots.

(Ord. #2022-624, § 4)

Sec. 23-24.2. Two-Unit Developments Pursuant to SB 9.

Sec. 23-24.2.1. Purpose.

The purpose of this article is to allow and appropriately regulate two-unit developments in accordance with Government Code Section 65852.21.

(Ord. #2022-624, § 4)

Sec. 23-24.2.2. Definition.

A "*two-unit project*" means the development of two (2) primary dwelling units, or if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit on a legally subdivided lot in accordance with the requirements of this article.

(Ord. #2022-624, § 4)

Sec. 23.24.2.3. Application.

A. Only individual property owners may apply for an urban lot split. "Individual property owner" means a person holding fee title individually or jointly in the person's own name or a beneficiary of a trust that holds fee title. "Individual property owner" does not include any corporation or corporate person of any kind (partnership, LP, LLC, C corp, S corp, etc.) except for a community land trust (as defined by Revenue and Tax Code § 402.1(a)(11)(C)(i)) or a qualified nonprofit corporation (as defined by § 214.15).

B. An application for a two-unit project shall be submitted on the city's approved form.

C. The applicant shall provide evidence to the city that the subject lot has been legally subdivided as part of the application submittal.

D. Only a complete application will be considered. The city will inform the applicant in writing of any incompleteness within thirty (30) days after the application is submitted.

(Ord. #2022-624, § 4)

Sec. 23-24.2.4. Approval.

A. An application for a two-unit project is approved or denied ministerially by the Planning Manager, without discretionary review.

B. The ministerial approval of a two-unit project does not take effect until the city has confirmed that the required documents have been recorded, such as the deed restriction and easements.

C. The approval shall require the individual property owner and applicant to hold the city harmless from all claims and damages related to the approval and its subject matter.

D. The approval shall require the individual property owner and applicant to reimburse the city for all costs of enforcement, including attorneys' fees and costs associated with enforcing the requirements of this article.

(Ord. #2022-624, § 4)

Sec. 23-24.2.5. Requirements.

A two-unit project shall satisfy each of the following requirements:

A. *Subdivision Map Act Compliance.* The lot shall have been legally subdivided.

B. *Zone.* The lot to be split shall be located in the single-family residential zones.

C. *Lot Location.* The lot to be split shall not located on a site that is described by any of the subparagraphs of the California Government Code Section 65913.4(a)(6)(B)-(K).

D. *No Prior Lot Split.*

1. The lot to be split was not established through a prior urban lot split.

2. The lot to be split is not adjacent to any lot that was established through a prior urban lot split by the individual property owner of the lot to be split or by any person acting in concert with the individual property owner.

E. *No Impact on Protected Housing.*

1. Housing that is income-restricted for households of moderate, low, or very low income.

2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its policy power.

3. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Government Code §§ 7060—7067.7) at any time in the fifteen (15) years prior to submission of the urban lot split application.

4. Housing that has been occupied by a tenant in the last three (3) years. The applicant and the owner of a property for which an urban lot split is sought must provide a sworn statement as to this fact with the application for the parcel map. The city may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including but not limited to, surveying the owners of nearby properties; and the city may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement

F. *Dwelling Unit Standards.*

1. *Quantity.*

a. No more than two (2) dwelling units of any kind shall be built on a lot that results from an urban lot split. For purposes of this paragraph, "unit" means any dwelling unit, including but not limited to, a primary dwelling unit, a unit created under this section of this article, an accessory dwelling unit (ADU), or a junior accessory dwelling unit (JADU).

b. Accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) shall not be permitted in association with lots or units created pursuant to SB 9, if three (3) units on that lot would result.

2. *Unit Size.*

a. The total floor area of each primary dwelling unit that is developed under this article shall be less than or equal to eight hundred (800) square feet and more than five hundred (500) square feet.

b. A primary dwelling unit that was legally established on the lot prior to the two-unit project and that is larger than eight hundred (800) square feet is limited to the lawful floor area at the time of the two-unit project. The dwelling unit shall not be expanded.

c. A primary dwelling unit that was legally established prior to the two-unit project and that is smaller than eight hundred (800) square feet may be expanded to eight hundred (800) square feet after or as part of the two-unit project.

3. *Setbacks.*

a. *Generally.* All setbacks shall comply with the minimum setback requirements of the applicable zoning district that the lot is located in except as follows.

b. *Existing Structures.* No setback is required for an existing legally established structure or for a new structure that is constructed in the same location and to the same dimensions as an existing legally established structure.

c. *Interior Side Yard and Rear Yard Setbacks.* Dwelling units shall provide a minimum of four (4) feet interior side yard and interior rear yard setbacks from the property line.

d. *Exterior Side Yard and Rear Yard Setbacks (abutting public rights-of-way, i.e., streets, sidewalks, etc.).* Dwelling units shall provide a minimum of ten (10) feet exterior side yard and exterior rear yard setbacks from the property line.

4. *Building Separation.* The horizontal distance required between structures shall be in accordance with the most current California Building Code requirements and regulations.

5. *Lot Coverage.* Two-unit developments shall comply with the maximum allowable lot coverage requirement of the applicable zoning district that the lot is located in.

6. *Floor Area Ratio (FAR).* Two-unit developments shall comply with the maximum allowable floor area ratio requirement of the applicable zoning district that the lot is located in.

7. *Building Height.* Maximum building height/stories shall be sixteen (16) feet and shall be limited to one (1) story.

No rooftop deck, balcony or similar construction on any new or remodeled dwelling unit or structure shall be permitted on a lot with a two-unit project.

8. *Parking.* SB 9 housing developments shall provide one (1) parking space, accessed by a minimum 12-foot wide by 20-foot-long driveway, unless the parcel is located within one-half (½) mile walking distance of either a high-quality transit corridor, a major transit stop, or within one block of a car share vehicle. A covered parking space, i.e., garage, carport, is preferred, but not required.

9. *Demolition Cap.* The two-unit project shall not involve the demolition of more than twenty-five (25) percent of the existing exterior walls of an existing dwelling unless the lot has not been occupied by a tenant in the last three (3) years.

10. *Nonconforming Conditions.* A two-unit project shall only be approved if all nonconforming zoning conditions are corrected.

11. *Utilities.* Each primary dwelling unit on the lot shall have its own direct utility connection to the utility provider.

G. *Objective Design Standards.* The following objective design standards shall apply to all SB 9 single-family dwelling units, and to associated on-site improvements:

1. Housing units with identical building elevations and/or floor plans shall not be located on adjacent lots or directly across the street from each other.

2. Design elements and detailing shall be continued completely around the structure. Such design elements shall include window treatments, trim detailing, exterior wall materials, and color palate. Firewalls are not exempt from the required design elements.

3. At least two (2) building materials shall be used on any building frontage (excluding roof and foundation) in addition to glazing and railings. Any one material shall comprise at least twenty (20) percent of the building frontage.

4. At least two (2) exterior colors shall be used. Elements that count toward this requirement include cladding material, trim/accent colors, and visually significant colors for doors, and similar elements. Primary colors shall be used as accent colors only.

5. Trash receptables locations shall be identified on the project plans and shall demonstrate screening from public view via equivalent height landscaping, or a solid wall or fence.

6. The main entry shall not be the garage door and shall be prominently placed on the building elevation facing the street.

7. Linear streetscape appearance in the building façade shall be avoided by providing variations in horizontal place in a minimum of fifty (50) percent of the building front and street side elevations. Variations shall include indentations, recesses, or projections of two (2) feet or greater. Vertical architectural elements (pilasters, columns, piers, other structural elements) shall vertically project a minimum of eight (8) feet in height and project a minimum of eight (8) inches from the building face.

8. Units shall include a minimum of three (3) elements from the following list to add visual variety and interest to building facades and enhance the connection between public and private realms:

a. Eaves;

b. Cornices;

c. Trellises;

d. Overhangs;

e. Exposed structural elements such as rafters, recessed windows, columns, bay windows. Other elements may be approved if they provide equivalent visual variety and interest.

9. Primary interior living spaces (bedrooms and living areas) shall be offset a minimum of eight (8) feet from a facing neighboring primary interior space on the same story.

10. A minimum of eight (8) feet shall be maintained between any primary interior living space (bedroom and living area) and an existing neighboring primary living space on the same story.

11. Trim surrounds shall be provided at all exterior window and door openings. Trim shall be substantial, visible, and at least two (2) inches in depth.

12. No building façade may extend in a continuous plane for more than twenty (20) feet without a window, door, variation in horizontal plane, or vertical architectural element.

13. A minimum of three (3) foot wide interior clear planter width landscaping shall be provided between the closest parallel property line to a driveway and the subject site. For flag lots, the planter shall only be required adjacent to the property not part of the project. Within the planter area, landscaping shall be maintained at a height of no greater than forty-two (42) inches to allow for line of sight to pedestrians and motorists for vehicles exiting the driveway.

14. Driveways to required parking shall not be asphalt, shall be a minimum of twelve (12) feet in width, and shall be concrete, pavers, stone, brick, or similar material. No driveway shall be allowed for units that do not require an on-site covered parking space and are not electing to included covered parking. Controlled or restricted entrances to required, or provided parking are prohibited.

15. Solar panels shall be required for any SB 9 housing development to an extent sufficient to meet the electrical load demand of each unit.

16. Mobile homes and recreational vehicles shall not be used as an SB 9 housing development.

H. *Fire Prevention Measures.* All dwelling units on the lot shall comply with current fire code requirements.

I. *Separate Conveyance.*

1. Primary dwelling units on the lot shall not be owned or conveyed separately from each other.

2. Condominium airspace divisions and common interest developments shall not be permitted within the lot.

3. All fee interest in the lot and all the dwelling units shall be held equally and undivided by all individual property owners.

J. *Deed Restriction.* The owner shall record a deed restriction, acceptable to the city, that does each of the following:

1. Owner of the property shall occupy one (1) of the dwelling units constructed upon a parcel created by an SB 9 urban lot split for a period of three (3) years from the date of approval of the SB 9 lot split as his or her primary residence.

2. Expressly prohibits any rental of any dwelling unit on the lot for a period of less than thirty (30) days.

3. Expressly prohibits any non-residential use of the lot.

4. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development with the lot.

5. States that the property is formed by an urban lot split and is therefore subject to the city's urban lot split regulations, including all applicable limits on dwelling unit size and development.

K. *Specific Adverse Impacts.*

1. Notwithstanding anything else in this article, the city may deny an application for a two-unit project, if the building official makes a written finding, based on a preponderance of the evidence, that the two-unit project would have a specific, adverse impact on either public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

2. "Specific adverse impact" has the same meaning as in Government Code § 65589.5(d)(2): "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date of the application was deemed complete", and does not include: (1) inconsistency with the zoning ordinance or general plan land use designation or (2) the eligibility to claim a welfare exemption under Revenue and Taxation Code section 214(g).

(Ord. #2022-624, § 4)

## ARTICLE 23-25. GENERAL FENCE REQUIREMENTS

Sec. 23-25.1. Intent.

The intent and purpose of the General Fence Requirements Article is to ensure safe sight lines and to minimize the potential negative visual impact or hazards of tall or unsightly fences, walls and/or retaining walls.

(Ord. #2009-538, § 1)

Sec. 23-25.2. Permit Required.

Before commencing construction of a fence or wall plans shall be submitted and approved by the City Manager or an assigned designee as a minor site plan approval for any fence or wall six (6) feet in height or less. Retaining walls and fences exceeding six (6) feet in height shall require approval through the regular site plan review process. All construction of fences and retaining walls must meet applicable requirements of Villa Park Building Code.

(Ord. #2009-538, § 1)

Sec. 23-25.3. Exceptions.

The provisions of this article may not apply to:

a. Temporary construction fences installed to protect the public from injury during construction or to maintain security for development (a permit must be obtained for these and they must be removed at completion of construction), including silt fences, and similar temporary fences required by the City during construction.

b. Fences utilized to surround or enclose public utility installations, public schools, or other public buildings used for city or city sponsored utility purposes. However, public schools are strongly encouraged to meet the approved materials requirements as outlined in subsection 23-25.4.a. below.

c. Existing nonconforming fences that are damaged or in need of repair/replacement. A fence or wall may be located in the exact location with the same material and height as the previous fence or wall so long as no more than fifty (50) percent of the fence or wall is replaced, the proposed fence or wall receives Site Plan and Community Development Committee approval, applicable Building and Engineering Department approval, and obtains all necessary permits.

(Ord. #2009-538, § 1)

Sec. 23-25.4. Materials.

All fences and walls shall be designed and constructed consistent with the quality of the dwelling, building or other improvements within the surrounding area and be constructed of quality materials.

a. The following is a list of approved fencing materials:

1. Masonry materials, such as brick, textured or split faced block, stucco, tile (as a veneer), or similar materials (manufactured stone, slate, stamped concrete, etc.).

2. Stone or rock.

3. Wrought-iron and associated pillars (so long as they meet the required materials as listed).

4. Wood or wood alternatives specifically manufactured as a fencing material.

5. Vinyl specifically manufactured as fencing material.

6. Glass, including glass block or tempered glass panels manufactured as a fencing material.

b. While the following fencing materials are prohibited in the front yard area or adjacent to the public right-of-way, they are permitted at inside and rear yard areas not adjacent to a public right-of-way:

1. Chain link.

2. Plywood.

3. Smooth-faced block or concrete walls unless veneered with any of the approved building materials as listed in subsection a. above.

4. Fiberglass.

5. Any materials not specifically identified in subsection a. above.

c. Fencing materials prohibited in all zones:

1. Barbed wire, including concertina or razor wire.

2. Electric fences; except where needed within the interior of a property for the keeping of large animals (where permitted).

d. Method of fencing. Fencing shall be erected in such a way that eliminates or minimizes long, unarticulated segments; offsets, varied textures, openings, recesses, and design accents on fences and walls are strongly encouraged in order to minimize long stretches of similar material. Use of plant material and/or wall vines is acceptable if properly irrigated and maintained. All wall vines are to be maintained by the property owner.

(Ord. #2009-538, § 1)

Sec. 23-25.5. Clear View Requirements.

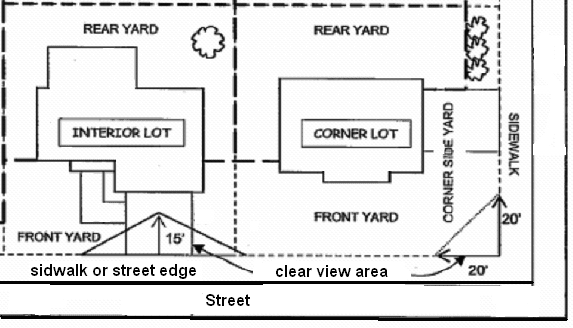
Clear view fencing requirements are intended to ensure safe sight line distances for both pedestrian and vehicular traffic in areas where such obstacles exist (i.e. fences, trees, landscaping). The following clear view requirements apply to all zones within the City:

a. The maximum height shall be three and one-half (3½) feet within the triangular area formed when extending a dimension line fifteen (15) feet back from the intersection of the centerline of the driveway and the front property line, perpendicular to the front property line, and when extending dimensions fifteen (15) on either side of the subject driveway (see clear view illustration A).

b. The maximum height shall be three and one-half (3½) feet within twenty (20) feet of the point of intersection of two ultimate street right-of-way lines (see clear view illustration B).

Clear View Illustrations:

|  |  |
| --- | --- |
| **A** | **B** |



Where elevations are different on either side of the fence, wall or hedge the maximum height shall be measured from the higher elevation, provided that higher elevation is level or increases for a distance of at least fifty (50) feet from the fence.

(Ord. #2009-538, § 1)

Sec. 23-25.6. Fencing Height Restrictions in Residential Zones.

a. The maximum height shall be three and one-half (3½) feet within any required front setback area, to a depth of twenty (20) feet as measured from the front property line; and six (6) feet within any required rear or side setback area beyond the front yard area. However, this regulation shall not apply to that portion of a building site where vehicular access rights have been dedicated to a public agency, or where a higher fence is required by law.

b. Rear yard and side yard fences and walls adjacent to Villa Park Road, Meats Avenue, Collins Avenue, and Santiago Boulevard, from Wanda Road to Meats Avenue, shall be permitted to a maximum of eight (8) feet in height. Wall modifications must be reviewed by the City Engineer and will be required to provide for appropriate sight distances at any access points.

c. The maximum height of any fence or wall constructed on or across a flat elevation shall be six (6) feet.

d. The maximum height of any fence or wall constructed on a sloped or terraced elevation shall measure a minimum as required by law and maximum of six (6) feet from the high side elevation and shall be no more than ten (10) feet on the low side elevation.

e. Any fence or wall constructed within five (5) feet of any ultimate street right-of-way shall be limited to a maximum of six (6) feet as measured from street side, unless otherwise exempted by this section.

f. The maximum height of any retaining wall shall be ten (10) feet in height.

g. Any fence or wall constructed within three (3) feet of any other fence or wall shall constitute one (1) structure for the purposes of height measurement.

h. Exceptions and modifications may be permitted subject to the approval of a variance. In addition to the findings made in the process of review and approval of such variance, the following findings shall also be made:

1. The height and location of the wall or fence as proposed will not result in or create a traffic hazard.

2. The location, size, design and other characteristics of the wall or fence will not create conditions or situations that may be objectionable or detrimental to the Zone in which it is located.

(Ord. #2009-538, § 1; Ord. #2009-545, § 1)

Sec. 23-25.7. Fencing Height Restrictions in Nonresidential Zones.

In nonresidential zones, fences and walls shall be approved as part of the required site plan review process. If existing nonconforming fences are damaged or in need of repair, the fence or wall may be located at the exact location, with the same height as the previous fence or wall so long as the fence or wall is constructed using construction materials as approved in this section. The following standards shall also apply:

a. Fences adjacent to a residential zone shall comply with the height restrictions found in subsection 23-25.6.e.

b. In the CN Zone, the AC "Architectural Supervision" regulations and procedures found in Article 23-9 shall apply.

(Ord. #2009-538, § 1)

## ARTICLE 23-26. DENSITY BONUS REQUIREMENTS

Sec. 23-26.1. Purpose and Application.

The purpose of this Article is to establish procedures for implementing state density bonus requirements, as set forth in California Government Code Section 65915, as amended, and to increase the production of affordable housing, consistent with the City's goals, objectives and policies. When an applicant seeks a density bonus for a housing development, or for the donation of land for housing, within the City's jurisdiction, the City shall provide the applicant incentives or concessions for the production of housing units and child care facilities as prescribed in this Article.

(Ord. #2010-555)

Sec. 23-26.2. Definitions.

The following definitions shall apply to this Article:

*"Affordable Housing Cost"* bears the same meaning as defined in Section 50052.5 of the California Health and Safety Code.

*"Affordable Housing Unit"* means a dwelling unit within a housing development which will be rented or sold to and reserved for very low-income households, lower-income households, moderate-income households and/or senior citizens at an affordable housing cost for the respective group(s) in accordance with Section 65915 of the California Government Code and this Article.

*"Affordable Rent"* means that level of rent defined in Section 50053 of the California Health and Safety Code.

*"Applicant"* means a developer or applicant for a density bonus pursuant to Section 65915, Subdivision (b), of the California Government Code and Section 23-26.3 of this Article.

*"Child Care Facility"* means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school-age child care centers.

*"Common Interest Development"* bears the same meaning as defined in Section 1351 of the California Civil Code.

*"Density Bonus"* means a density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the applicant to the City.

*"Development Standard"* means site or construction conditions that apply to a housing development pursuant to any ordinance, general plan element, specific plan, charter amendment, or other local condition, law, policy, resolution or regulation.

*"Housing Development"* means one or more groups of projects for residential units in the planned development of the City. "Housing development" also includes a subdivision or common interest development, as defined in Section 1351 of the California Civil Code, approved by the City and consisting of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units.

*"Lower Income Households"* bears the same meaning as defined in Section 50079.5 of the California Health and Safety Code.

*"Maximum Allowable Residential Density"* means the density allowed under applicable zoning ordinances, or if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the subject project.

*"Moderate Income"* or "persons and families of moderate income" means those middle-income families as defined in Section 50093 of the California Health and Safety Code.

*"Qualified Mobile Home Park"* means a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the California Civil Code.

*"Senior Citizen Housing Development"* means senior citizen housing as defined in Sections 51.3 and 51.12 of the California Civil Code.

*"Specific Adverse Impact"* means any adverse impact as defined in Paragraph (2), Subdivision (d), of California Government Code Section 65589.5, upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households.

*"Very-Low Income Household"* bears the same meaning as defined in Section 50105 of the Health and Safety Code.

(Ord. #2010-555)

Sec. 23-26.3. Qualifications for Density Bonus and Incentives and Concessions.

(a) The City shall grant one (1) density bonus as specified in Section 23-26.7, and incentives or concessions as described in Section 23-26.5, when an applicant seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this Article, that will contain at least any one (1) of the following:

(1) Ten (10) percent of the total units of the housing development as affordable housing units affordable to lower income households;

(2) Five (5) percent of the total units of the housing development as affordable housing units affordable to very-low income households;

(3) A senior citizen housing development;

(4) A qualified mobile home park; or

(5) Ten (10) percent of the total units of a common interest development as affordable housing units affordable to moderate income households, provided that all units in the development are offered to the public for purchase subject to the restrictions specified in this Article.

(b) As used in subsection (a) of this section, the term "total units" does not include units permitted by a density bonus awarded pursuant to this section or any other local law granting a greater density bonus.

(c) Each applicant who requests a density bonus pursuant to this Article, shall elect whether the bonus shall be awarded on the basis of subsection (a)(1), (2), (3), (4) or (5) of this section. Each housing development is entitled to only one density bonus, which may be selected based on the percentage of either very-low income affordable housing units, lower income affordable housing units or moderate income affordable housing units, or the development's status as a senior citizen housing development or qualified mobile home park. Density bonuses from more than one category may not be combined.

(Ord. #2010-555)

Sec. 23-26.4. Continued Affordability.

(a) An applicant shall agree to, and the City shall ensure, continued affordability of all low and very-low income units that qualified the applicant for the award of the density bonus for a period of thirty (30) years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for affordable housing units for lower income households shall be set at an affordable rent. Owner-occupied affordable housing units shall be available at an affordable housing cost.

(b) An applicant shall agree to, and the City shall ensure, that the initial occupant of moderate income units that are directly related to the receipt of the density bonus in a common interest development, are persons and families of moderate income and that the units are offered at an affordable housing cost. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following shall apply to the equity sharing agreement:

(1) Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The City shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within three (3) years for any of the purposes that promote homeownership as described in Subdivision (e) of Section 33334.2 of the California Health and Safety Code.

(2) For purposes of this subsection, the City's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale, the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(3) For purposes of this subsection, the City's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.

(Ord. #2010-555)

Sec. 23-26.5. Incentives and Concessions.

(a) An applicant for a density bonus may also submit to the City a proposal for specific incentives or concessions in exchange for the provision of affordable housing units in accordance with this Article. The applicant may also request a meeting with the City to discuss such a proposal. The City shall grant the concession or incentive requested by the applicant unless the City makes a written finding, based upon substantial evidence, of either of the following:

(1) The concession or incentive is not required in order to provide for affordable housing costs;

(2) The concession or incentive would have a specific adverse impact; or

(3) The concession or incentive would be contrary to state or federal law.

(b) If the conditions of section 23-26.3 and subsection (a) of this section are met by an applicant, the City may grant the applicant the following number of incentives or concessions:

(1) One (1) incentive or concession for housing developments that include: at least ten (10) percent of the total units affordable to lower-income households; or at least five (5) percent of the total units affordable to very low-income households; or at least ten (10) percent of the total units affordable to persons and families of moderate income in a common interest development;

(2) Two (2) incentives or concessions for housing developments that include: at least twenty (20) percent of the total units affordable to lower-income households; or at least ten (10) percent of the total units affordable to very low-income households; or at least twenty (20) percent of the total units affordable to persons and families of moderate income in a common interest development;

(3) Three (3) incentives or concessions for housing developments that include: at least thirty (30) percent of the total units for lower-income households; or at least fifteen (15) percent for very low-income households; or at least thirty (30) percent for persons and families of moderate income in a common interest development.

(c) For the purposes of this Article, available concessions or incentives may include any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the California Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions;

(2) Approval of mixed use zoning in conjunction with the housing development if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing development will be located;

(3) Other regulatory incentives or concessions proposed by the applicant or the City that result in identifiable, financially sufficient, and actual cost reductions.

(d) This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly-owned land, by the City or the waiver of fees or dedication requirements. Nor does any provision of this Section require the City to grant an incentive or concession found to have a specific adverse impact.

(e) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.

(f) The application and review process for a proposal of incentives and concessions is set forth in section 23-26.11.

(g) The importance of views and adherence to height limits to residents Citywide precludes any consideration of height increases associated with this Code.

(Ord. #2010-555)

Sec. 23-26.6. Waiver/Modification of Development Standards.

(a) Applicants may, by submitting a letter of Justification/Explanation, seek a waiver, modification or reduction of development standards that will otherwise preclude or inhibit the use of density bonus units in a housing development at the densities or with the concessions or incentives permitted by this Article. The applicant may also request a meeting with the City to discuss such request for waiver/modification. In order to obtain a waiver/modification of development standards, the applicant shall show that (i) the waiver or modification is necessary to make the housing units economically feasible, and (ii) that the development standards will have the effect of precluding the construction of a housing development meeting the criteria of section 23-26.3(a), at the densities or with the concessions or incentives permitted by this Article.

(b) Nothing in this section shall be interpreted to require the City to waive, modify or reduce development standards if the waiver, modification or reduction would have a specific adverse impact.

(c) The application and review process for a waiver/modification of development standards is set forth in section 23-26.11.

Sec. 23-26.7. Specified Density Bonus Percentages.

(a) Only housing developments consisting of five (5) or more dwelling units are eligible for the density bonus percentages provided by this section. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in section 23-26.3(a).

(b) For housing developments meeting the criteria of section 23-26.3(a)(1), the density bonus shall be calculated as follows:

|  |  |
| --- | --- |
| Percentage Low-Income Units | Percentage Density Bonus |
| 10 | 20 |
| 11 | 21.5 |
| 12 | 23 |
| 13 | 24.5 |
| 14 | 26 |
| 15 | 27.5 |
| 17 | 30.5 |
| 18 | 32 |
| 19 | 33.5 |
| 20 | 35 |

(c) For housing developments meeting the criteria of section 23-26.3(a)(2), the density bonus shall be calculated as follows:

|  |  |
| --- | --- |
| Percentage Very Low-Income Units | Percentage Density Bonus |
| 5 | 20 |
| 6 | 22.5 |
| 7 | 25 |
| 8 | 27.5 |
| 9 | 30 |
| 10 | 32.5 |
| 11 | 35 |

(d) For housing developments meeting the criteria of sections 23-26.3(a)(3) and (4), the density bonus shall be twenty (20) percent.

(e) For housing developments meeting the criteria of Section 23.25.3(a)(5), the density bonus shall be calculated as follows:

|  |  |
| --- | --- |
| Percentage Moderate-Income Units | Percentage Density Bonus |
| 10 | 5 |
| 11 | 6 |
| 12 | 7 |
| 13 | 8 |
| 14 | 9 |
| 15 | 10 |
| 16 | 11 |
| 17 | 12 |
| 18 | 13 |
| 19 | 14 |
| 20 | 15 |
| 21 | 16 |
| 22 | 17 |
| 23 | 18 |
| 24 | 19 |
| 25 | 20 |
| 26 | 21 |
| 27 | 22 |
| 28 | 23 |
| 29 | 24 |
| 30 | 25 |
| 31 | 26 |
| 32 | 27 |
| 33 | 28 |
| 34 | 29 |
| 35 | 30 |
| 36 | 31 |
| 37 | 32 |
| 38 | 33 |
| 39 | 34 |
| 40 | 35 |

(f) An applicant may elect to accept a lesser percentage of density bonus than that to which the applicant is entitled under this Article. All density bonus calculations resulting in a fractional number shall be rounded upwards to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.

(g) For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower-income households are located.

(h) The application and review process for a density bonus as provided by this section is set forth in section 23-26.1.

(Ord. #2010-555)

Sec. 23-26.8. Land Donation.

(a) When a developer of a housing development donates land to the City as provided for in this section, the applicant shall be entitled to a fifteen (15) percent increase above the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for the entire housing development, as follows:

|  |  |
| --- | --- |
| Percentage Very Low-Income Units | Percentage Density Bonus |
| 10 | 15 |
| 11 | 16 |
| 12 | 17 |
| 13 | 18 |
| 14 | 19 |
| 15 | 20 |
| 16 | 21 |
| 17 | 22 |
| 18 | 23 |
| 19 | 24 |
| 20 | 25 |
| 21 | 26 |
| 22 | 27 |
| 23 | 28 |
| 24 | 29 |
| 25 | 30 |
| 26 | 31 |
| 27 | 32 |
| 28 | 33 |
| 29 | 34 |
| 30 | 35 |

This increase shall be in addition to any increase in density mandated by section 23-26.3, up to a maximum combined mandated density increase of thirty-five (35) percent, if an applicant seeks both the increase required pursuant to this section and section 23-26.3. All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the City's authority to require an applicant to donate land as a condition of development.

(b) An applicant shall be eligible for the increased density bonus described in this section if the City is able to make all the following findings:

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

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

(3) The transferred land is at least one (1) acre in size or of sufficient size to permit development of at least forty (40) units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible.

(4) No later than the date of approval of the final subdivision map, parcel map, or development application for the housing development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of very-low income housing units on the transferred land, except that the City may subject the proposed development to subsequent design review to the extent authorized by Subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer;

(5) The transferred land and the very low-income units constructed on the land will be subject to a deed restriction ensuring continued affordability of the units consistent with this Article, which restriction will be recorded on the property at the time of dedication;

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

(7) The transferred land shall be within the boundary of the proposed development or, if the City agrees in writing, within one-quarter (¼ mile of the boundary of the proposed development;

(8) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(c) The application and review process for a donation of land and related density bonus is set forth in section 23-26.11.

(Ord. #2010-555)

Sec. 23-26.9. Child Care Facilities.

(a) When an applicant proposes to construct a housing development that includes affordable units as specified in section 23-26.3 and includes a child care facility that will be located on the premises of, as part of, or adjacent to such housing development, the City shall grant either of the following if requested by the developer:

(1) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

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

(b) A housing development shall be eligible for the density bonus or concession described in this section if the City, as a condition of approving the housing development, requires all of the following to occur:

(1) The child care facility will remain in operation for a period of time that is as long as or longer than the period of time during which the affordable housing units are required to remain affordable pursuant to section 23-26.4;

(2) Of the children who attend the child care facility, the percentage of children of very low-income households, lower-income households, or moderate-income households shall be equal to or greater than the percentage of affordable housing units that are proposed to be affordable to very low-income households, lower-income households, or moderate-income households;

(3) Notwithstanding any requirement of this section, the City shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community already has adequate child care facilities.

(c) The application and review process for the provision of child care facilities and related density bonus or concessions or incentives is set forth in section 23-26.11.

(Ord. #2010-555)

Sec. 23-26.10. By-Right Parking incentives.

(a) Housing developments meeting any of the criteria of section 23-26.3(a), shall be granted the following maximum parking ratios, inclusive of handicapped and guest parking, which shall apply to the entire development, not just the restricted affordable units, when requested by a developer:

(1) Zero to one (1) bedroom dwelling unit: One (1) onsite parking space;

(2) Two (2) to three (3) bedroom dwelling unit: Two (2) onsite parking spaces;

(3) Four (4) or more bedrooms: Two and one-half (2½) parking spaces.

(b) If the total number of spaces required results in a fractional number, it shall be rounded up to the next whole number. For purposes of this subsection, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through on-street parking.

(Ord. #2010-555)

Sec. 23-26.11. Application and Review Procedures.

(a) A written application for a density bonus, incentive, concession, waiver, or modification pursuant to this Article shall be submitted with the first application for approval of a housing development and processed concurrently with all other applications required for the housing development. The application shall be submitted on a form prescribed by the City and shall include at least the following information:

(1) Site plan showing total number of units, number and location of affordable housing units, and number and location of proposed density bonus units;

(2) Level of affordability of affordable housing units and proposals for ensuring affordability;

(3) Description of any requested incentives, concessions, waivers or modifications of development standards, or modified parking standards. The application shall include evidence that the requested incentives and concessions are required for the provision of affordable housing costs and/or affordable rents, as well as evidence relating to any other factual findings required under section 23-26.5;

(4) If a density bonus or concession is requested in connection with a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the findings included in section 23-26.8 can be made;

(5) If a density bonus or concession/incentive is requested for a childcare facility, the application shall show the location and square footage of the child care facilities and provide evidence that each of the findings included in section 23-26.9 can be made.

(b) An application for a density bonus, incentive or concession pursuant to this Article shall be considered by and acted upon by the approval body with authority to approve the housing development and subject to the same administrative appeal procedure, if any. In accordance with state law, neither the granting of a concession, incentive, waiver, or modification nor the granting of a density bonus shall be interpreted, in and of itself, to require a general plan amendment, zoning change, variance, or other discretionary approval.

(c) For housing developments requesting a waiver, modification or reduction of a development standard, an application pursuant to this subsection shall be heard by the City Council. A public hearing shall be held by the City Council and the Council shall issue a determination. Pursuant to Government Code Section 65915, the City Council shall approve the requested waiver/modification or reduction of development standards, unless one (1) of the following conditions applies:

(1) The waiver/modification is not required to make the proposed affordable housing units feasible; or

(2) The waiver/modification will have a specific adverse impact.

The decision of the City Council may be appealed within fourteen (14) consecutive calendar days of the date the decision is made in the manner provided in Villa Park Municipal Code.

(d) Notice of any City determination pursuant to this section shall be provided to the same extent as required for the underlying development approval.

(e) The fees, including any required deposits, for processing applications for permits or other approvals or appeals pursuant to this title shall be as set forth in the fee schedule adopted by resolution of the City Council.

(Ord. #2010-555)

## ARTICLE 23-27. REASONABLE ACCOMMODATION

Sec. 23-27.1. Intent and Purpose.

In compliance with federal and state fair housing laws, this Article sets forth a process by which the City may make reasonable accommodations in land use, zoning and building regulations, policies, practices, and procedures for persons with disabilities. The intent is to allow disabled persons with physical or mental impairments an equal opportunity to use and enjoy a dwelling.

(Ord. #2016-604, § 7)

Sec. 23-27.2. Definitions.

Unless otherwise noted, the definitions or terms used in this section shall have the same meaning as defined in the California Fair Employment and Housing Act, California Government Code Section 12926 et seq. The terms listed below are illustrative of how they may be understood with respect to housing, for the purposes of this section.

*"Disabled Person"* shall mean a person who has a physical or mental impairment which limits one (1) or more major life activities or makes achievement of a major life activity difficult.

*"Major Life Activity"* shall include physical, mental and social activities, which may include but are not limited to self-care, mobility or sensory perception. A temporary condition such as a broken bone, use of crutches, etc. does not qualify as a physical or mental impairment, and thus does not qualify one as a disabled person.

*"Reasonable Accommodation"* means providing flexibility in the application of land use and zoning and building regulations, policies, practices and procedures, up to waiving certain requirements, when it is necessary to construct or adapt dwelling units that are readily accessible to and usable by disabled persons.

(Ord. #2016-604, § 7)

Sec. 23-27.3. Application and fees.

a. An application for reasonable accommodation shall be made upon a form to be provided by the Planning Department, together with any applicable environmental information, forms, and plans. The application shall include, but not necessarily be limited to the following:

1. Documentation that the applicant is a disabled person, is representing a disabled person, or is a developer or provider of housing for one (1) or more disabled persons;

2. Authorization by the legal owner of the real property subject to the request;

3. Identification of the specific code sections from which an exception or modification is requested;

4. Explanation of the necessity for the requested exception or modification; and

5. Plans which illustrate the manner in which the exception or modification is/are intended to be carried out.

b. To the extent permitted by law, any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.

c. A fee, as prescribed by resolution of the City Council.

d. To be eligible for consideration of a reasonable accommodation, the property must be in compliance with the laws applicable to the property. If noncompliance is unrelated to the request for reasonable accommodation, and does not jeopardize the health and safety of occupants of the property or nearby properties, then the Planning Director may waive this requirement and act on the request for reasonable accommodation. Such waiver shall not preclude the City from requiring correction of existing violations in accordance with the Villa Park Municipal Code.

(Ord. #2016-604, § 7)

Sec. 23-27.4. Planning Director Action and Required Findings.

a. Requests for reasonable accommodation shall be reviewed by the Planning Director in accordance with the criteria listed below. The Planning Director shall act upon the request in one (1) of the following ways:

1. By approving the request.

2. By approving the request subject to the imposition of reasonably related conditions.

3. By continuing the request pending the submission of additional information or alternative solutions to the problem.

4. By denying the request.

5. By denying the request without prejudice to the filing of a new reasonable accommodation application.

b. A reasonable accommodation request shall be granted or conditionally granted when the Planning Director finds, consistent with fair housing laws, all of the following:

1. The dwelling subject to the request for a reasonable accommodation will be used by a disabled person protected under fair housing laws;

2. The requested accommodation is necessary to provide the disabled resident(s) an equal opportunity to use and enjoy a dwelling;

3. The requested accommodation will not impose an undue financial or administrative burden on the City;

4. The requested accommodation will not result in a fundamental alteration in the nature of the City's land use and zoning or building program or on the character of the neighborhood affected by the request; and

5. The requested accommodation will not impact the health, safety or general welfare of other individuals and will not result in physical damage to the properties of others.

c. The decision of the Planning Director shall be documented in written form, which shall include the findings set forth above.

d. The Planning Director's determination on a requested accommodation shall become final and effective ten (10) days following the date of final decision unless an appeal of such decision is filed with the Planning Department, pursuant to section 23-27.6 of this chapter.

e. The Planning Department shall keep a permanent record of all decisions of the Planning Director, as well as the ultimate disposition of those applications that are appealed. The record shall be available for public review.

(Ord. #2016-604, § 7)

Sec. 23-27.5. Time Limits.

a. Any accommodation granted by the Planning Director shall become null and void if not exercised within twelve (12) months from the date of approval.

b. Prior to the date of expiration of the approved accommodation, the time at which such application expires may be extended by the Planning Director for a period or periods not exceeding twelve (12) months for a total of two (2) years.

c. Any accommodation granted or conditionally granted by the Planning Director or by the City Council on appeal, once timely exercised, shall not run with the land but shall remain in effect for the duration of the time that the dwelling is occupied by any person having the disability for which the accommodation was provided or another disability which requires the same accommodation.

(Ord. #2016-604, § 7)

Sec. 23-27.6. Appeals.

a. Within ten (10) working days of the Planning Director's final decision, the applicant or any aggrieved party may file an appeal of that decision by filing a letter of appeal with the Planning Department stating the reasons therefore and an appeal fee as set forth by resolution of the City Council. If the tenth working day falls on a weekend or holiday, an appeal may be filed on the next working day.

b. If appealed, the City Council shall hear the appeal, as provided for in section 23-23.4 of this Title, and shall make the findings in section 23-27.4.b. prior to taking an action which has the effect of approving an application for a reasonable accommodation.

(Ord. #2016-604, § 7)

## ARTICLE 23.28. WIRELESS TELECOMMUNICATIONS FACILITIES

Sec. 23-28.1. Intent and purpose.

The purpose and intent of this chapter is to establish a comprehensive set of regulations and standards for the permitting, placement, design, installation, operation and maintenance of wireless telecommunications facilities in all areas within the City. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. These regulations are intended to protect the health, safety and welfare of persons living and working in the City, preserve the aesthetic values of the City, and allow for the orderly, managed and efficient deployment of wireless telecommunications facilities in accordance with state and federal laws, rules and regulations.

(Ord. #2018-610, § 1)

Sec. 23-28.2. Definitions.

*"Agent"* means a person authorized to act on behalf of a permittee or other person or entity in matters pertaining to the processing of a wireless telecommunications facility as outlined in this chapter.

*"Amateur radio antenna"* means an antenna constructed and operated for transmitting and receiving radio signals for noncommercial purposes, usually in relation to a person's hobby.

*"Antenna"* means that part of a wireless telecommunications facility designed to radiate or receive radio frequency signals.

*"Applicant"* means any person that submits an application to the City to site, install, construct, modify, and/or operate a wireless telecommunications facility.

*"Base station"* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(1), as may be amended, which defines that term as follows:

A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. § 1.40001(b)(9) or any equipment associated with a tower.

(1) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(2) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks).

(3) The term includes any structure other than a tower that, at the time the relevant application is filed with the City under this section, supports or houses equipment described in paragraphs (1) and (2) of this section that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(4) The term does not include any structure that, at the time the relevant application is filed with the City under this section, does not support or house equipment described in paragraphs (1) and (2) of this section.

*"Cable"* means any wire typically consisting of copper, coax or fiber used for utility service purposes.

*"Camouflaged" or "camouflaging"* means concealment techniques that integrate the transmission equipment into the surrounding natural and/or built environment such that the average, untrained observer cannot directly view the equipment but would likely recognize the existence of the wireless facility or concealment technique. Camouflaging concealment techniques include, but are not limited to: (1) façade or rooftop mounted pop-out screen boxes; (2) antennas mounted within a radome above a wooden utility pole, streetlight; (3) equipment cabinets in the public rights-of-way painted or wrapped to match the background; and (4) an isolated or standalone faux-tree.

*"Code"* means the City of Villa Park Municipal Code.

*"Collocation"* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(2), as may be amended, which defines that term as the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

*"Collocation facility"* means a wireless telecommunications facility that has been collocated consistent with the meaning of "collocation" as defined above. It does not include the initial installation of a new wireless telecommunications facility where previously there was none, nor the construction of an additional tower on a site with an existing tower.

*"CPCN"* means a "Certificate of Public Convenience and Necessity" granted by the CPUC.

*"CPUC"* means the California Public Utilities Commission.

*"Director"* means the Planning Director, or his or her designee.

*"Eligible facilities request"* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(3), as may be amended, which defines that term as a request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (a) collocation of new transmission equipment, (b) removal of transmission equipment, or (c) replacement of transmission equipment.

*"Eligible support structure"* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(4), as may be amended, which defines that term as any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the City.

*"Existing"* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(5), as may be amended, states a constructed tower or base station is existing for purposes of this section if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

*"Federal Communications Commission (FCC)"* means the independent U.S. governmental agency charged with regulating interstate and international communications by radio, television, wire, satellite and cable.

*"Height"* means the vertical distance from any point at the top of an antenna and/or ancillary wireless telecommunications structure to the finished or natural surface, whichever is more restrictive or lower, measured directly adjacent to the existing building or new structure.

*"Modification"* means a change to an existing wireless telecommunications facility that involves any of the following: Collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, changes in size, shape, color, visual design, exterior material, or equipment model.

*"OTARD"* means any over-the-air reception device subject to 47 C.F.R. § 1.4000 et seq., as may be amended, and which includes satellite television dishes not greater than one (1) meter in diameter.

*"Pole"* means a single shaft of wood, steel, concrete or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by the provisions of this Code.

*"Public right-of-way"* means any public highway, street, alley, sidewalk, parkway which is either owned, operated or controlled by the City, or is subject to an easement or dedication to the city, or is a privately owned area with the City's jurisdiction which is not yet, but is designated as a proposed public right-of-way on a tentative subdivision map approved by the City.

*"RF"* means radio frequency or electromagnetic waves generally between 30 kHz and 300 GHz.

*"Site"* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(6), as may be amended, which defines that term as for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

*"Small cell"* means the same as defined by California Government Code § 65964.2, as may be amended, which defines that term as a wireless telecommunications facility or a wireless facility that uses licensed or unlicensed spectrum and that meets the following qualifications:

(1) The small cell antennas on the structure, excluding the associated equipment, total no more than six (6) cubic feet in volume, whether an array or separate.

(2) Any individual piece of associated equipment on pole structures does not exceed nine (9) cubic feet.

(3) The cumulative total of associated equipment on pole structures does not exceed twenty-one (21) cubic feet.

(4) The cumulative total of any ground-mounted equipment along with the associated equipment on any pole or nonpole structure does not exceed thirty-five (35) cubic feet.

(5) The following types of associated ancillary equipment are not included in the calculation of equipment volume:

(I) Electric meters and any required pedestal.

(II) Concealment elements.

(III) Any telecommunications demarcation box.

(IV) Grounding equipment.

(V) Power transfer switch.

(VI) Cutoff switch.

(VII) Vertical cable runs for the connection of power and other services.

(VIII) Equipment concealed within an existing building or structure.

*"Small cell"* includes a micro wireless facility.

*"Small cell"* does not include the following:

(1) Wireline backhaul facility, which is defined to mean a facility used for the transport of communications data by wire from wireless facilities to a network.

(2) Coaxial or fiber optic cables that are not immediately adjacent to or directly associated with a particular antenna or collocation.

(3) The underlying vertical infrastructure.

*"Stealth"* means concealment techniques that completely screen all transmission equipment from public view and integrate the transmission equipment with the surrounding natural and/or built environment such that, given the particular context, the average, untrained observer does not recognize the existence of the wireless telecommunications facility or concealment technique. These facilities are so integrated and well-hidden that the average, untrained observer would need special knowledge to recognize their existence. Stealth concealment techniques include, but are not limited to: (1) transmission equipment placed completely within existing architectural features such that the installation causes no visible change to the underlying structure and (2) new architectural features that mimic the underlying building in architectural style, physical proportion and quality of construction materials. Architectural features commonly used as stealth concealment include, but are not limited to, church steeples, cupolas, bell towers, clock towers, pitched faux-roofs, water tanks and flagpoles. Further, whether a wireless facility qualifies as a stealth facility depends on the context that exists at a given location and is evaluated on a case-by-case basis.

*"Substantial change"* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(7), as may be amended, which states a modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

(1) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten (10) percent or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten (10) percent or more than ten (10) feet, whichever is greater;

(A) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012, the date that Congress passed Section 6409(a) of the Middle Class Tax Relief and Job Creation Act (aka the Spectrum Act).

(2) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;

(3) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten (10) percent larger in height or overall volume than any other ground cabinets associated with the structure;

(4) It entails any excavation or deployment outside the current site;

(5) It would defeat the concealment elements of the eligible support structure as determined by the City; or

(6) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in (1) through (4) in this definition.

*"Transmission equipment"* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(8), as may be amended, which defines that term as equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

*"Tower"* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(9), as may be amended, which defines that term as any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. Examples include, but are not limited to, freestanding mast, pole, monopole, guyed tower, lattice tower, freestanding tower, or other structure designed and primarily used to support wireless telecommunications facility antennas.

*"Utility pole"* means any pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission.

*"Vertical infrastructure"* means all poles or similar facilities in the public rights-of way meant for, or used in whole or in part for, communications services, electrical service, lighting, traffic control or similar functions.

*"Wireless telecommunications facility"* means equipment installed for the purpose of providing wireless transmission of voice, data, images, or other information including, but not limited to, cellular telephone service, personal communications services, and paging services, consisting of equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems. It includes, but is not limited to, antennas and/or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, equipment cabinets, pedestals, meters, tunnels, vaults, splice boxes, surface location markers, related transmission equipment, equipment buildings, parking areas, and other accessory development.

(Ord. #2018-610, § 1)

Sec. 23-28.3. Applicability.

(a) This chapter applies to the design, siting, construction, or modification of any and all wireless telecommunications facilities as follows:

(1) All facilities for which applications were not approved prior to December 19, 2017 shall be subject to and comply with all provisions of this chapter.

(2) All facilities for which applications were approved by the City prior to December 19, 2017 shall not be required to obtain a new or amended permit until such time as a provision of this code so requires. Any wireless telecommunications facility that was lawfully constructed prior to December 19, 2017 that does not comply with the standards, regulations, and/or requirements of this division shall be deemed a nonconforming use and shall also be subject to the provisions of Section 23-18.1.

(3) All facilities for which applications have been previously approved, but are now or hereafter: (a) expanded or (b) modified by the installation of additional antennas, larger antennas or more powerful antennas, or (c) when one or more bands of service are activated shall comply with this chapter.

(b) All facilities, notwithstanding the date approved, shall be subject immediately to the provisions of this chapter governing the operation and maintenance (Section 23-28.9), cessation of use and abandonment (Section 23-28.11), and removal and restoration (Section 23-28.12) of wireless telecommunications facilities; provided, however, that in the event a condition of approval conflicts with a provision of this division, the condition of approval shall control until the permit is amended, expired, or revoked.

(c) This chapter does not apply to the following:

(1) Facilities owned and operated by the City for its use;

(2) Amateur radio facilities;

(3) Over the Air Reception Devices ("OTARD") antennas;

(4) Wireless facilities installed completely indoors and intended to extend signals for personal wireless services in a personal residence or a business (such as femtocell or indoor distributed antenna system);

(5) Wireless facilities or equipment owned and operated by CPUC-regulated electric companies for use in connection with electrical power generation, transmission and distribution facilities subject to CPUC General Order 131-D.

(6) Any entity legally entitled to an exemption pursuant to state or federal law or governing franchise agreement.

(d) Relationship to Other Chapters. This chapter shall supersede all conflicting requirements of other titles and chapters of this Code regarding the locating and permitting of wireless telecommunications facilities.

(Ord. #2018-610, § 1)

Sec. 23-28.4. Wireless Telecommunications Facility Permit Requirements.

(a) *Wireless Telecommunications Facility Conditional Use Permit.* All wireless telecommunications facilities are subject to the granting of a conditional use permit. Wireless Telecommunications Facility Conditional Use Permits are subject to City Council approval unless otherwise provided for in this chapter.

(b) *Administrative Wireless Telecommunications Facility Permit.* An Administrative Wireless Telecommunications Facility Permit, subject to the Director's approval, may be issued for new facilities or collocations or modifications to existing facilities that meet the following criteria:

(1) The facility is a small cell located within the public right-of-way.

(2) The facility qualifies as an eligible facilities request as defined in this chapter.

(c) In the event that the Director determines that any application submitted for an Administrative Wireless Telecommunications Facility Permit does not meet the criteria of this Code, the Director shall convert the application to a Wireless Telecommunications Facility Conditional Use Permit application and refer it to the City Council. Additional submittal materials may be required.

(d) *Other Permits Required.* In addition to any permit that may be required under this chapter, the applicant must obtain all other required prior permits or other approvals from other City departments, or state or federal agencies. Any permit granted under this chapter is subject to the conditions and/or requirements of other required prior permits or other approvals from other City departments, state or federal agencies.

(e) *Procedures for a Duly Filed Application.* Any application for a Wireless Telecommunications Facility will not be considered duly filed unless submitted in accordance with the procedures in this Section 23-28.4.

(1) *Pre-Submittal Conference.* Before application submittal, the applicant must schedule and attend a pre-submittal conference with the Director for all proposed projects on new support structures in the public rights-of-way. Pre-submittal conferences for all other proposed projects are encouraged but not required. The pre-submittal conference is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification and review process, any latent issues in connection with the proposed or existing wireless tower or base station, including compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other City departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to provide draft applications or other materials so that City staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable. The Director shall use reasonable efforts to provide the applicant with an appointment within five (5) working days after the Director receives a written request and any applicable fee or deposit to reimburse the city for its reasonable costs to provide the services rendered in the pre-submittal conference.

(2) *Appointment Required.* All applications for a wireless telecommunications facility shall be submitted to the city at a pre-scheduled appointment with the Director. Applicants may submit one (1) application per appointment, but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. Any application received without an appointment or a pre-submittal conference, whether delivered in-person, by mail or through any other means, will not be considered duly filed.

(f) *Applications Deemed Withdrawn.* To promote efficient review and timely decisions, any application governed under this chapter will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the Director within ninety (90) calendar days after the Director deems the application incomplete in a written notice to the applicant. The Director may, in the Director's discretion, grant a written extension for up to an additional thirty (30) calendar days when the applicant submits a written request prior to the ninetieth (90th) day that shows good cause to grant the extension. Delays due to circumstances outside the applicant's reasonable control will be considered good cause to grant the extension.

(g) *Application Requirements.* All applicants for a wireless telecommunications facility shall submit all the content, information, materials and fees required by the Director for the application. The City Council authorizes the Director to develop, publish and from time-to-time update or amend permit application forms, checklists, informational handouts and other related materials that the Director finds necessary, appropriate or useful for processing any application governed under this Section. The City Council further authorizes the Director to establish other reasonable rules and regulations, which may include regular hours for appointments with applicants, as the Director deems necessary or appropriate to organize, document and manage the application intake process. All such permit application forms, checklists, informational handouts, rules and regulations must be in written form and made available on the City's website and/or in-person at the Planning Department to provide applicants with prior notice.

(Ord. #2018-610, § 1)

Sec. 23-28.5. Findings; Limited Exceptions.

(a) *Required Findings for Approval.* The approval authority may approve or conditionally approve any application for a Wireless Telecommunications Facility Conditional Use Permit or Administrative Wireless Telecommunications Facility Permit when the approval authority finds that:

(1) The proposed wireless telecommunications facility will not be detrimental to persons or property in the immediate vicinity and will not adversely affect the City in general.

(2) The proposed wireless telecommunications facility has been designed to achieve compatibility with the community to the maximum extent reasonably feasible.

(3) The location of the wireless telecommunications facility on alternative sites will not increase community compatibility or is not reasonably feasible.

(4) The proposed wireless telecommunications facility is necessary to close a significant gap in coverage, increase network capacity, or maintain service quality, and is the least intrusive means of doing so.

(b) *Limited Exception.* The city recognizes that federal law prohibits a permit denial when it would effectively prohibit the provision of personal wireless services and the applicant proposes the least intrusive means to provide such services. In the event that an applicant asserts that strict compliance with any provision in this chapter, as applied to a specific proposed wireless telecommunications facility, would effectively prohibit the provision of personal wireless services, the approval authority may grant a limited, one-time exception from strict compliance subject to the provisions in this chapter. The approval authority shall not grant any exception unless the applicant demonstrates all of the following with clear and convincing evidence:

(1) The proposed wireless facility qualifies as a "personal wireless services facility" as defined by the United States Code, Title 47, section 332(C)(7)(C)(ii), as may be amended or superseded;

(2) The applicant has provided the City with a reasonable and clearly defined technical service objective to be achieved by the proposed wireless telecommunications facility;

(3) The applicant has provided the City with a written statement that contains a detailed and fact-specific explanation as to why the proposed wireless telecommunications facility cannot be deployed in compliance with the applicable provisions in this chapter;

(4) The applicant has provided the city with a meaningful comparative analysis with the factual reasons why all alternative location(s) and/or design(s) identified by the City or otherwise identified in the administrative record, including but not limited to potential alternatives identified at any public meeting or hearing, are not technically feasible or potentially available to reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed wireless telecommunications facility; and

(5) The applicant has demonstrated to the City that the proposed location and design is the least non-compliant configuration that will reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed wireless telecommunications facility, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive wireless telecommunications facilities dispersed throughout the intended service area.

(c) *Independent Consultant for Limited Exceptions.* The City shall have the right to hire, at the applicant's expense, an independent consultant to evaluate issues raised by the exception and to submit recommendations and evidence in response to the application.

(Ord. #2018-610, § 1)

Sec. 23-28.6. Requirements for Facilities Outside the Public Right-of-Way.

The City desires to promote cleanly organized and streamlined facilities using the smallest and least intrusive means available to provide wireless services to the community. All wireless telecommunications facilities located outside the public rights-of-way must comply with all applicable provisions in this section. In the event that any other law, regulation or code requires any more restrictive design and/or construction requirements, the most restrictive requirement will control.

(a) *Preferred Locations.* All applicants must, to the extent feasible, propose new wireless telecommunications facilities in locations according to the following preferences, ordered from most preferred to least preferred:

(1) Commercial zones;

(2) Public facilities zones;

(3) Single-family zones.

No new facility may be placed in a less appropriate area unless the applicant demonstrates that no more appropriate location can feasibly serve the area the facility is intended to serve, provided that the City may authorize a facility to be established in a less appropriate location if doing so is necessary to prevent substantial aesthetic impacts.

(b) *Preferred Support Structures.* In addition to the preferred locations described in Section 23-28.6, the City also expresses its preference for installations on certain support structures. The approval authority will take into account whether a more preferred support structure is technically feasible and potentially available. The City's preferred support structures are as follows, ordered from most preferred to least preferred:

(1) Collocation on an existing non-tower structure;

(2) Collocation on an existing tower;

(3) New installations on existing buildings, utility structures, and other non-tower structures;

(4) New freestanding towers.

(Ord. #2018-610, § 1)

Sec. 23-28.7. Requirements for Facilities Within the Public Right-of-Way.

The City desires to promote cleanly organized and streamlined facilities using the smallest and least intrusive means available to provide wireless telecommunications services to the community. All wireless telecommunications facilities in the public rights-of-way must comply with all applicable provisions in this chapter. In the event that any other law, regulation or code requires any more restrictive design and/or construction requirements, the most restrictive requirement will control.

(a) *Preferred Facility Location.* All applicants must, to the extent feasible, propose new wireless telecommunications facilities in locations according to the following preferences, ordered from most preferred to least preferred:

(1) Within or abutting a commercial zone not requiring any modifications to the existing location of any infrastructure or landscaping;

(2) Within or abutting a commercial zone requiring only minor alterations to the existing infrastructure or landscaping (including planter size);

(3) Within or abutting a public facilities zone;

(4) Abutting sensitive uses, such as historical sites, schools, daycare facilities, playgrounds, etc.

(5) Within or abutting residential zones.

No new facility may be placed in a less appropriate location unless the applicant demonstrates that no more appropriate location can feasibly serve the area the facility is intended to serve, provided that the City may authorize a facility to be established in a less appropriate location if doing so is necessary to prevent substantial aesthetic impacts.

(b) *Preferred Antenna Location.* All applicants must, to the extent feasible, propose antennas in locations according to the following preferences, ordered from most preferred to least preferred:

(1) On an existing utility pole;

(2) On an existing street light.

No new antennas may be placed in a less appropriate location unless the applicant demonstrates that no more appropriate location can feasibly serve the area the antennas are intended to serve, provided that the City may authorize antennas to be established in a less appropriate location if doing so is necessary to prevent substantial aesthetic impacts.

(c) *Preferred Equipment Location.* All applicants must, to the extent feasible, propose equipment in locations according to the following preferences, ordered from most preferred to least preferred:

(1) Within a below-grade equipment vault, vault must be flush with grade;

(2) Mounted on the subject vertical infrastructure;

(3) In an existing ground-mounted (grade-level) equipment cabinet or enclosure, with no expansion or additional cabinets to be added;

(4) Within a new equipment cabinet or enclosure mounted at grade. An exception shall be required to place a new equipment cabinet or enclosure mounted at grade.

No new equipment may be placed in a less appropriate location unless the applicant demonstrates that no more appropriate equipment location can feasibly serve the facility, provided that the City may authorize equipment to be established in a less appropriate location if doing so is necessary to prevent substantial aesthetic impacts.

(d) *Exception Required.* Wireless telecommunications facilities are strongly disfavored in certain areas. Therefore, the following locations are permitted only when an exception has been granted pursuant to Section 23-28.5.

(1) Within center medians;

(2) Mounted on traffic signals;

(3) Mounted on new vertical infrastructure that is not replacing existing vertical infrastructure;

(4) New equipment cabinet or enclosure mounted at grade.

(e) *No Interference with Public Rights-of-Way.* In no case shall any part of a wireless telecommunications facility alter vehicular circulation or parking within the public rights-of-way, nor shall it impede vehicular and/or pedestrian access or visibility along any public right-of-way. No permittee shall locate or maintain wireless telecommunications facilities to unreasonably interfere with the use of city property or the public rights-of-way by the City, by the general public or by other persons authorized to use or be present in or upon the public rights-of-way. Unreasonable interference includes disruption to vehicular, bicycle, or pedestrian traffic on city property or the public rights-of-way, interference with public utilities, and any such other activities that will present a hazard to public health, safety or welfare when alternative methods of construction would result in less disruption. All such facilities shall be moved by the permittee, at the permittee's cost, temporarily or permanently, as determined by the City Engineer or the Planning Director.

(Ord. #2018-610, § 1)

Sec. 23-28.8. Design and Development Standards.

All wireless telecommunications facilities shall be designed, located and maintained to minimize visual, aesthetic, noise, and other impacts on the surrounding community. They shall be planned, designed, located, and erected in accordance with the following:

(a) *General Guidelines.*

(1) No new wireless telecommunications facility may be located in areas where collocation on existing facilities would provide equivalent coverage, new capacity, and service quality with less environmental or aesthetic impact.

(2) The overall development footprint of a wireless telecommunications facility shall be as small as technically feasible.

(3) There may be no net loss of required parking or landscaping when siting a wireless telecommunications facility.

(4) The applicant shall employ screening, undergrounding, and stealth design techniques in the design and placement of a wireless telecommunications facility in order to minimize its visual intrusiveness and negative aesthetic impact.

(5) Screening shall be designed to be architecturally compatible with surrounding structures using appropriate techniques to camouflage, disguise, and/or blend into the environment, including landscaping, color, and other techniques to minimize the facility's visual impact, as well as be compatible with the architectural character of the surrounding buildings or structures in terms of color, size, proportion, style and quality.

(6) All facilities shall have subdued colors and non-reflective materials that blend with the materials and colors of the surrounding area and structures.

(b) *Design Guidelines.* The City shall promulgate additional detailed Design Guidelines for the design and installation of wireless telecommunications facilities, which the City shall consider in reviewing an application. The Design Guidelines will accord with this chapter but will provide greater detail, description, and examples of acceptable wireless facilities. In addition, the Design Guidelines shall provide administrative and procedural guidance to applicants such as a list of minimum application requirements. The provisions in this section shall not limit or prohibit the city's discretion to promulgate and make publicly available other information, materials, or requirements in addition to, and separate from, the Design Guidelines.

(c) *The Design Guidelines Shall be Reviewed and Approved by the City Council Before Being Finalized.* The Director shall have authority to update or supplement the Design Guidelines to address relevant changes in law, technology, or administrative processes. Any revisions to the Design Guidelines that would materially modify the physical design requirements for wireless telecommunications facilities to make them more obtrusive or materially modify the standards and locations for wireless telecommunications facilities shall be presented to the City Council for review and approval. In the event of any conflict between the Design Guidelines and the standards articulated in this chapter of the Villa Park Municipal Code, the language of this chapter takes precedence over the language of the Design Guidelines.

(d) *Speculative Equipment Prohibited.* The City finds that the practice of "pre-approving" wireless equipment or other improvements that the applicant does not presently intend to install but may wish to install at some undetermined future time does not serve the public's best interest. The City shall not approve any equipment or other improvements in connection with a wireless telecommunications facility permit when the applicant does not actually and presently intend to install such equipment or construct such improvements.

(Ord. #2018-610, § 1)

Sec. 23-28.9. Operation and Maintenance Standards.

All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards.

(a) *Repairs.* Unless otherwise provided herein, all necessary repairs and restoration shall be completed by the permittee, owner, operator or any designated maintenance agent within forty-eight (48) hours:

(1) After discovery of the need by the permittee, owner, operator or any designated maintenance agent; or

(2) After permittee, owner, operator or any designated maintenance agent receives notification from the City.

(b) *Contact Information.* Each permittee of a wireless telecommunications facility shall provide the City with the name, title, direct phone number, mailing address, email address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator and the agent responsible for the maintenance of the facility ("contact information"). Contact information shall be updated within seven (7) days of any change.

(c) *Good Condition.* All facilities, including, but not limited to, telecommunications towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:

(1) General dirt and grease;

(2) Chipped, faded, peeling, and cracked paint;

(3) Rust and corrosion;

(4) Cracks, dents, and discoloration;

(5) Missing, discolored or damaged artificial foliage or other camouflage;

(6) Graffiti, bills, stickers, advertisements, litter and debris;

(7) Broken and misshapen structural parts; and

(8) Any damage from any cause.

(d) *Landscaping.* All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in good condition at all times. The permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping within five (5) calendar days after written notice from the City. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the Director.

(e) *Replacement.* The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.

(f) *Routine Inspections.* Each facility shall be operated and maintained to comply with all conditions of approval. Each owner or operator of a facility shall routinely inspect each site to ensure compliance with the same and the standards set forth in this chapter.

(Ord. #2018-610, § 1)

Sec. 23-28.10. Permit Expiration.

(a) Unless California Government Code § 65964(b), as may be amended, authorizes the City to issue a permit with a shorter term, a permit for any wireless telecommunications facility shall be valid for a period of ten (10) years, unless pursuant to another provision of this Code it lapses sooner or is revoked. At the end of ten (10) years from the date of issuance, such permit shall automatically expire.

(b) The City's approval of an Administrative Wireless Telecommunications Permit constitutes a federally-mandated modification to the underlying permit or approval of the tower or base station. The City's approval of an Administrative Wireless Telecommunications Permit will not extend the permit term for any underlying permit or other regulatory approval, and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station.

(c) A permittee may apply for a new permit within one hundred eighty (180) days prior to expiration. Said application and proposal shall comply with the City's current code requirements for wireless telecommunications facilities.

(Ord. #2018-610, § 1)

Sec. 23-28.11. Cessation of Use or Abandonment.

(a) A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for ninety (90) or more consecutive days unless the permittee has obtained prior written approval from the city which shall not be unreasonably denied.

(b) The operator of a facility shall notify the city of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) sixty (60) days prior to the final day of use. Said notification shall be in writing, shall specify the date of termination and shall include reference to the applicable permit number.

(Ord. #2018-610, § 1)

Sec. 23-28.12. Removal and Restoration—Permit Expiration, Revocation or Abandonment.

(a) Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the permit or abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility and restore the site to the condition that existed prior to the installation of the wireless telecommunications facility, or collocated portion thereof, except for retaining landscaping improvements or any other improvements at the discretion of the City. Removal shall be in accordance with applicable health and safety requirements and all ordinances, rules, and regulations of the City. The facility shall be removed from the property, at no cost or expense to the City.

(b) Failure of the permittee, owner or operator to promptly remove its facility and restore the property within six (6) months after expiration, earlier termination or revocation of the permit, or abandonment of the facility, shall be a violation of this Code. Upon a showing of good cause, an extension may be granted by the City where circumstances are beyond the control of the permittee after expiration.

(c) *Summary Removal.* In the event the City determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action, the city may cause the facility to be removed summarily and immediately without advance notice or hearing. Written notice of the removal shall include the basis for the removal and shall be served upon the permittee and person who owns the facility within five (5) business days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within sixty (60) days, the facility shall be treated as abandoned property.

(d) *Removal of Facilities by City.* In the event the City removes a facility in accordance with nuisance abatement procedures or summary removal, any such removal shall be without any liability to the City for any damage to such facility that may result from reasonable efforts of removal. Unless otherwise provided herein, the City has no obligation to store such facility. Neither the permittee, owner nor operator shall have any claim if the City destroys any facility not timely removed by the permittee, owner or operator after notice, or removed by the City due to exigent circumstances.

(Ord. #2018-610, § 1)

Sec. 23-28.13. Standard Conditions of Approval.

The City may add or modify conditions of approval as necessary or appropriate to protect and promote the public health, safety, and welfare. All facilities approved under this chapter shall be subject to the following conditions:

(a) *Permit Term.* This permit will automatically expire ten (10) years and one (1) day from its issuance, except when California Government Code § 65964(b), as may be amended or superseded in the future, authorizes the City to establish a shorter term for public safety or substantial land use reasons. Any other permits or approvals issued pursuant to Section 6409(a) in connection with any collocation, modification or other change to this wireless facility, which includes without limitation any permits or other approvals deemed-granted under federal law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law. Upon a written application from the applicant, the approval authority shall renew this permit for an additional ten-year term if the facility is in compliance with all local, state and federal laws at the time the permit expires.

(b) *Build-Out Period.* This permit will automatically expire one (1) year from the approval or deemed-granted date unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved wireless telecommunications facility, which includes without limitation any permits or approvals required by the any federal, state or local public agencies with jurisdiction over the subject property, the wireless telecommunications facility or its use. The Director may grant one (1) written extension to a date certain when the permittee shows good cause to extend the limitations period in a written request for an extension submitted at least thirty (30) days prior to the automatic expiration date in this condition.

(c) *Compliance with Approved Plans.* Before the permittee submits any applications to the Building Department, the permittee must incorporate this permit, all conditions associated with this permit and the approved photo simulations into the project plans (the "approved plans"). The permittee must construct, install and operate the wireless facility in substantial compliance with the approved plans. Any alterations, modifications or other changes to the approved plans, whether requested by the permittee or required by other departments or public agencies with jurisdiction over the wireless telecommunications facility, are subject to the Director's prior review and approval, who may refer the request to the original approval authority if the Director finds that the requested alteration, modification or other change substantially deviates from the approved plans or implicates a significant or substantial land use concern.

(d) *Post-Installation Final Inspection.* The permittee shall obtain a final inspection by the Director to ensure the facility is built in accordance with the approved plans. If the facility is not constructed as conditioned, the Director reserves the right to withhold finalizing the Building Permit until the facility is modified to comply with all plans and conditions.

(e) *Maintenance Obligations; Vandalism.* The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved plans and all conditions in this permit. Any concealment elements shall be kept in "like new" condition at all times. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within forty-eight (48) hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred. The permittee and property owner shall maintain any and all landscape features in accordance with an approved landscape plan, if any, and shall replace dying or dead trees, foliage or other landscape elements shown on the approved plans within five (5) calendar days after written notice from the City.

(f) *Compliance with Laws.* The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("laws") applicable to the permittee, the subject property, the wireless telecommunications facility or any use or activities in connection with the use authorized in this permit, which includes without limitation any laws applicable to human exposure to RF emissions. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all Laws. In the event that the City fails to timely notice, prompt or enforce compliance with any applicable provision in the California Building Code, Villa Park Municipal Code, Fire Code, any permit, any permit condition, or any applicable law or regulation, the applicant or permittee will not be relieved from its obligation to comply in all respects with all applicable provisions in any such permit, permit condition or any applicable law or regulation.

(g) *Adverse Impacts on Other Properties.* The permittee shall use all reasonable efforts to avoid any and all undue or unnecessary adverse impacts on nearby properties that may arise from the permittee's or its authorized personnel's construction, installation, operation, modification, maintenance, repair, removal and/or other activities at the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction hours in accordance with Villa Park Municipal Code Sections. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City. The Director or the Director's designee may issue a stop work order for any activity that violates this condition.

(h) *Backup Power; Generators.* After obtaining all necessary permits, the permittee may operate backup power generators only during: (1) commercial power outages, or (2) for maintenance purposes during normal construction hours in accordance with Villa Park Municipal Code Section 6-6.5(a)—(d). The Director may approve a temporary power source and/or generator in connection with initial construction or major repairs.

(i) *Inspections; Emergencies.* The permittee expressly acknowledges and agrees that the City's officers, officials, staff or other designee may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee, or at any time during an emergency. The City's officers, officials, staff or other designee may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons; provided, however, that even in such emergency circumstances, the City shall use reasonable efforts to notify the permittee prior to such entry to the extent practicable under the circumstances. The permittee, if present, may observe the City's officers, officials, staff or other designee while any such inspection or emergency access occurs.

(j) *Permittee's Contact Information.* The permittee shall provide the City with the name, title, direct phone number, mailing address, email address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator and the agent responsible for the maintenance of the facility. Contact information shall be updated within seven (7) days of any change.

(k) *Indemnification.* The applicant, permittee, operator of a facility, and property owner (when applicable) agrees to defend, indemnify and hold harmless the City of Villa Park, its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul an approval of the City or any of its councils, commissions, committees or boards arising from or in any way related to the wireless telecommunications facility, or any actions or operations conducted pursuant thereto. Should the City, its agents, officers or employees receive notice of any such claim, action or proceeding, the City shall promptly notify the applicant, permittee, operator of a facility, and property owner of such claim, action or proceeding, and shall cooperate fully in the defense thereof.

(l) *Transfer of Use.* The Planning Department shall be notified in writing of any transfer or lease of the wireless telecommunications facility. The permittee shall promptly provide a copy of the permit to the transferee or lessee and shall insure that lessee or other user(s) understands and agrees to comply with the terms and conditions of this permit.

(m) *Removal of Discontinued Use.* In the event that the use of a wireless telecommunications facility is discontinued, the permittee shall provide written notice to the Director of its intent to discontinue use sixty (60) days prior to the final day of use. The permittee shall promptly remove the facility, repair any damage to the premises caused by such removal, and restore the premises to its pre-facility condition so as to be in conformance with all applicable zoning codes at the permittee's expense. All such removal, repair and restoration shall be completed within six (6) months after the use is discontinued, and shall be performed in accordance with all applicable health and safety code requirements.

*Additional conditions for wireless telecommunications facilities within the rights-of-way:*

(n) *Taxes and Assessments.* To the extent taxes or other assessments are imposed by taxing authorities on the use of City property as a result of an applicant's use or occupation of the rights-of-way, the applicant shall be responsible for payment of such taxes, payable annually unless otherwise required by the taxing authority.

(o) *Undergrounded Utilities.* In the event that other public utilities or cable television operators in the public rights-of-way where the permittee's wireless facility is located underground their facilities, the permittee must underground its equipment except the antennas and antenna supports. Such undergrounding shall occur at the permittee's sole cost and expense except as reimbursed pursuant to law.

(p) *Electric Meter Removal.* In the event that the commercial electric utility provider adopts or changes its rules obviating the need for a separate electric meter and enclosure, the permittee on its own initiative and at its sole cost and expense shall apply to the City for permission to remove the separate electric meter and enclosure and restore the affected area to its original condition.

(q) *Existing Infrastructure Restoration.*

(1) Upon installation of the new work, the contractor shall restore the street and/or alley pavement as required in full and complete compliance with the approved Encroachment Permit and Wireless Telecommunications Facility Permit for use of the public right-of-way, and to the satisfaction of the City Engineer.

(2) Upon installation of the new work, the contractor shall restore all concrete walks, driveway aprons, and "collector strips" as required in full and complete compliance to the satisfaction of the City Engineer.

(3) Upon installation of the new work, the contractor shall restore all trees, landscaping, lawns and/or sod strips to the satisfaction of the City Engineer.

(Ord. #2018-610, § 1)

1. For statutory provisions pertaining to planning in general, see Gov. Code § 65000 et seq.; for provisions authorizing cities to regulate the use of land and buildings see Gov. Code § 65850; for provisions requiring a city to adopt a general plan, see Gov. Code § 65300. For provisions pertaining to the construction of streets and public improvements, see Chapter XVII, Article 17-1; for provisions relating to animal permits, see Chapter VII, Article 7-8. [↑](#footnote-ref-1)
2. Section 1 of Ord. #88-378 repealed former subsection 23-11.4, regulating temporary uses of a fireworks sales facility; and § 3 added a new subsection. [↑](#footnote-ref-2)
3. Section 1 of Ord. #88-378 repealed former subsection 23-11.5, relating to limitation on fireworks stands; and § 2 added a new subsection 23-11.5. [↑](#footnote-ref-3)
4. Editor's note(s)—Ord. No. 2023-629, § 3, adopted June 27, 2023, repealed the former Article 23-22, §§ 23-22.1—23-22.4, and enacted a new Article 23-22 as set out herein. The former Article 23-22 pertained to similar subject matter and derived from Ord. No. 95-430 and Ord. No. 2005-514; and Ord. No. 2018-608, § 4, adopted May 22, 2018. [↑](#footnote-ref-4)