CHAPTER XXXII

PLANNING AND LAND USE *

* Editor's Note: With the exception of paragraphs marked by a specific source, this chapter was adopted by Ord. No. 15, §1.

Division 1. GENERAL

ARTICLE I

GENERAL PROVISIONS

32-1 GENERAL PROVISIONS.

32-1.1 Purpose.

The purpose of this Chapter is to carry out the policies of the Town of Danville General Plan. It is also the intent of this Chapter to promote the orderly development of the Town; establish general development and land use requirements; promote and protect the public health, safety, peace, comfort, and general welfare; and to protect the character, social, and economic vitality of neighborhoods and districts.

(Ord. #2015-06, §2)

32-1.2 Relationship to General Plan.

Land use and development regulations are the primary tool used by the Town to carry out the goals, objectives, and policies of the General Plan. It is intended that all land use and development regulations be consistent with the General Plan and that any planning application approved in compliance with these regulations will also be consistent with the General Plan.

(Ord. #2015-06, §2)

32-1.3 Applicability of Zoning and Development Regulations.

This chapter applies to and regulates all land uses and development of land including private and public uses of private and/or public land within the Town of Danville.

a. *Compliance Required.* No structure shall be altered, erected, or reconstructed in any manner, nor shall any structure or land be used for any purpose, other than as allowed by this chapter.

b. *Conflicts with other Plans.* When there is a conflict between this chapter and the general plan, the general plan shall prevail. In addition, if a conflict occurs between the requirements of this chapter and standards adopted as part of a development agreement or specific plan, the requirements of the development agreement or specific plan shall apply.

c. *Minimum Requirements.* The requirements of this chapter are minimum requirements for the promotion of the public health, safety, and general welfare. When this chapter provides for a discretionary approval, more stringent requirements may be imposed as determined necessary by the review authority to promote land use and development compatibility, provide environmental protection, and/or meet other purposes of this chapter.

d. *Private Agreements.* The requirements of this chapter are not intended to interfere with, abrogate, annul, or repeal any agreement, covenant (e.g., CC&Rs), easement, or restriction between private parties. However, if this chapter conflicts with requirements imposed or required by other private agreements, covenants, or easements, the provisions of this chapter shall control. The Town shall not enforce, or take into consideration as part of an action, any private agreement, covenant, or restriction unless it is a party to the agreement, covenant, or restriction.

e. *Other Permits May Be Required.* Nothing in this chapter eliminates the need for obtaining other permits required by the Town or obtain other permits and/or following regulations of a special district or agency or State or Federal agency.

(Ord. #2015-06, §2)

32-1.4 Exercise of Discretion.

In the event that a provision of this chapter or a condition of approval imposed on a project or property through Town-approval of a discretionary planning entitlement allows the review authority to exercise judgment in the application of a specific development standard, land use, or condition of approval, the review shall include, but is not limited to, an analysis as to whether:

a. The proposed project complies with all applicable provisions of this chapter;

b. The exercise of authority will act to ensure the compatibility of the proposed project with its site and surrounding properties;

c. The manner in which authority is exercised will result in a more practical application of the provisions of this chapter given specific characteristics of the site and its surroundings; and

d. The decision is consistent with the intent of the general plan and any other applicable regulation or standard.

(Ord. #2015-06, §2)

32-1.5 **Enforcement.**

No land in the Town shall be used for any purpose not permitted under this chapter, nor shall any building or structure be erected, constructed, altered, moved or maintained contrary to this chapter. Any use of land, building or structure contrary to this chapter is unlawful and constitutes a public nuisance. On order of the Town Council, the City Attorney shall commence an action for the abatement and removal of any such nuisance and for an injunction preventing the further unlawful use of any land, building or structure violating this chapter. The remedies provided for in this section shall be cumulative and not exclusive.

(Ord. #2015-06, §2)

32-1.6 **Nonconforming Uses.**

a. *Defined.* Any lawful use of land or buildings existing prior to the adoption of this chapter, which use does not conform to the provisions of this chapter, shall be a nonconforming use and shall not be in violation of this chapter until the use is discontinued or ceases for any reason.

b. *Repair - Rebuilding.* If any building or structure constituting a nonconforming use is destroyed or damaged by fire, explosion, act of God or the public enemy, or other accident or catastrophe, or if an existing use of land is temporarily terminated, the building or structure may not be repaired or rebuilt if damaged in excess of fifty percent of its reasonable market value at the time of destruction or damage, without approval of a Land Use Permit application. Any existing, nonconforming use of land which is interrupted by any cause may lawfully be resumed within six months of the interruption.

c. *Extension - Enlargement.* An existing nonconforming use may be extended or enlarged only after the approval of a Land Use Permit by the Town.

(Ord. #2015-06, §2)

32-1.7 **Utilities and Pipelines.**

The use of land for rights-of-way for the construction, maintenance and repair of public utilities and publicly owned utilities, and for privately owned pipelines for the transportation of oil, gas, water, and other substances transportable by pipelines, is not regulated or restricted by this chapter. Accessory and appurtenant structures forming a part of public utilities, publicly owned utilities and pipelines are not regulated or restricted by this chapter except for setback regulations.

(Ord. #2015-06, §2)

32-1.8 Drainage Requirements and New Construction Adjacent to Major and Non-Major Channels.

a. Drainage facilities and all new construction shall be installed under a permit issued pursuant to this Chapter, adequate to meet and comply with the drainage design standards and requirements set forth in Chapter XXXI, Subdivision.

b. A permit for the installation of drainage facilities will not be issued until applications, plans and exhibits for such facilities are submitted which comply with the requirements of this section and Article I through Article V.

(Ord. #2015-06, §2)

32-1.9 **Zoning Districts for Open Space.**

To comply with the Government Code Section 65910 the following zoning districts are deemed to be zoning districts for open space when applied in conformance with the open space policies of the general plan: Agricultural Preserve District (A-4), General Agricultural District (A-2), and Planned Unit Development District (P-l). This section neither limits the use of these zoning districts to the implementation of general plan open space policies, nor precludes the Town from adopting additional ordinances to implement those policies.

(Ord. #2015-06, §2)

32-1.10 Water and Sewer Requirements.

Water supply and sewage systems and/or facilities required for any use, construction, structure, or other development to be established under a planning application approval issued pursuant to this Chapter shall comply with the Danville Municipal Code and obtain the approval of the East Bay Municipal Utility District, Contra Costa Health -Environmental Health Division, and/or the Central Contra Costa Sanitary District.

(Ord. #2015-06, §2)

32-1.11 Required Area Reduced by Public Use.

If part of a lot or parcel of land, which meets the minimum area requirement for its zoning district, is acquired for public use in any manner, including dedication, condemnation, or purchase, and if the remainder of the lot or parcel has not less than eighty percent of the

area required for its land use district, the remainder shall be considered as having the required area, but front yard, side yard, and rear yard setback requirements shall be met. This provision does not apply to public right-of-ways or easements which are used for the purpose of vehicular access for the lot or parcel. If a lot or parcel of land has an authorized nonconforming status as to area under any Town ordinance, the parcel shall retain its nonconforming status if the acquisition for public use does not reduce the remainder below eighty percent of the existing nonconforming area. The setback, side yard, and rear yard requirements of the land use district shall be met, except for buildings or structures in existence at the time of public acquisition.

(Ord. #2015-06, §2)

32-1.12 Side Yards on Lots Established Before Effective Date.

Notwithstanding any other provisions of this chapter, minimum side yard setbacks for the first floor of a primary residence shall be permitted in any single family residential district, two family district, or multiple family residential district according to the following table for any lot or parcel of land which was established prior to December 12, 1978 by records in the Office of the Recorder for the area or district in which the lot or parcel of land is situated:

Width of Lot at Front Yard Setback	*Minimum Aggregate Side Yard Allowed*	*Minimum Single Side Yard Allowed*
100 feet or less but more than 50 feet	20 feet	10 feet
50 feet or less	10 feet	5 feet

Side yard setbacks for any portion of the primary residence other than the first floor shall observe a minimum setback of an additional five feet beyond the minimum first floor setback, or meet the minimum side yard setback requirements for the applicable zoning district, whichever is less. (Ord. #2015-06, §2)

32-1.13 Accessory Structures in Rear Yards.

Accessory structures may occupy not more than thirty percent of a required rear yard area.

(Ord. #2015-06, §2)

32-1.14 Off-Street Parking.

a. *Generally.* Except as provided for in Section 32-45 (Downtown Business District), it is the intent of this Chapter that all land uses shall be provided with sufficient space located off-street for the parking of vehicles to meet the needs of persons employed at or making use of such land uses. No planning application or building permit for the erection of a new structure or for the enlargement of an existing structure, or for the development of a land use, shall be approved unless it includes off-street parking facilities as required by this Chapter.

b. *Application to Existing Land Uses.* Land uses in existence (i.e., occupied by a structure) on July 1,1982, shall not be subject to the requirements of this chapter, provided that any off-street parking facilities now required or serving such land uses shall not, in the future, be reduced below these requirements. Any expansion of the use resulting in a higher parking demand shall be subject to the requirements of this Chapter.

c. *Fractional Parking Space.* Where the computation of required off-street parking spaces results in a fractional number, only the fraction of one-half or more shall be counted as one.

d. *Mixed Uses.* Where property is occupied or intended to be occupied by two or more establishments falling into different classes of uses, the off-street parking required shall be the sum of the requirements for the various individual establishments, computed separately; off-street parking provided for one use shall not be considered as being provided for any other use.

e. *Location.* Required off-street parking shall normally be provided on the same lot or premises as the main use it serves. Where this is impractical, the decision making authority, by approval of a Land Use Permit, may authorize provision for parking on any parcel located within two hundred (200') feet of the lot containing the main use. Any allowed off-site parking shall be available for the subject use, and shall not be counted toward the required parking supply for any other concurrent use.

f. *Design and Layout.* Off-street parking areas shall be designed in such a manner as to conform to the following regulations, subject to review and approval by the decision making authority:

Angle of Parking Degrees	*Stall Width*	*Curb Length*	*Stall Depth*	*Driveway Width*
0	9 ft. 0 in.	23 ft. 0 in.	9 ft. 0 in.	12 ft. 0 in.
20	9 f t . 0 i n .	26 ft. 4 in.	15 ft. 0 in.	11 ft. 0 in.
30	9 f t . 0 i n .	18 ft. 0 in.	17 ft. 4 in.	11 ft. 0 in.
40	9 f t . 0 i n .	14 ft. 0 in.	19 ft. 2 in.	12 ft. 0 in.

45	9 f t . 0 i n .	12 ft. 9 in.	19 ft. 10 in.	13 ft. 0 in.
50	9 f t . 0 i n .	11 ft. 9 in.	20 ft. 5 in.	12 ft. 0 in.
60	9 f t . 0 i n.	10 ft. 5 in.	21 ft. 0 in.	18 ft. 0 in.
70	9 ft. 0 in.	9 ft. 8 in.	21 ft. 0 in.	19 ft. 0 in.
80	9 ft. 0 in.	9 ft. 2 in.	20 ft. 4 in.	26 ft. 0 in.
90	9 ft. 0 in.	9 ft. 0 in.	19 ft. 0 in.	28 ft., 0 in.

1. Thirty percent (30%) of the total required parking may be provided in compact parking stalls. A compact stall shall be at least eight by sixteen (8' x 16') feet in size including allowable overhang and shall be marked with standard pavement markings.

2. All off-street parking facilities shall be designed with appropriate maneuvering areas and means of vehicular access to the main and auxiliary streets. Where the parking area does not abut on a street, there shall be provided an access drive not less than twelve feet in width in the case of one-way traffic, and not less than twenty feet in width in all other cases, leading to the parking area in such a manner as to secure the most appropriate development of the property in question.

3. Required off-street parking areas shall be surfaced with an asphaltic or Portland cement binder pavement, or similar material so as to provide a durable and dustless surface, and shall be so graded and drained as to prevent the ponding of water.

4. Parking areas shall not be used for automobile sales, storage, repair work, dismantling or servicing of any kind.

5. A planter or landscaped strip at least four feet in width shall be provided adjacent to street rights-of-way. Dead corners and other waste areas shall be landscaped to provide a visual break in the paved area. Parking areas of more than five parking spaces shall provide, in addition to the required parking area, an area equal to not less than five percent of the total parking area devoted to landscaping. Within this planter or landscaped strip, an irrigation system shall be installed. Such a landscaped strip or planter shall be provided to create the necessary visual and physical break between the pedestrian traffic utilizing the sidewalks along the streets and the vehicular traffic in the parking area, and by this means, substantially reduce the traffic hazard to the pedestrian.

6. Parking spaces shall be marked or maintained on the pavement and any other directional marking or signs shall be installed as permitted or required by the decision making authority, to insure the maximum utilization of space, sufficient traffic flow, and general safety.

7. Lighting, if provided, shall be directed downward and away from residential areas and public streets so as not to produce a glare as seen from such areas, in order to insure the general safety of other vehicular traffic and the privacy and well-being of the residential areas, and the lighting intensity shall be no greater than reasonably required to light the parking area.

8. Access to public parking areas and curb cuts for driveways shall be located to insure an efficient and safe traffic flow into the parking areas and along the public streets.

9. Parking areas shall be designed so that if a vehicle overhangs a sidewalk or landscape area, the sidewalk maintains minimum accessible width requirements and that the landscaping is low enough for the vehicle to overhang.

10. Within any of the commercial, industrial and multiple family residential zones, parking areas shall be designed so that vehicles are not permitted to back out of the parking areas onto streets.

11. A six feet high, solid fence, or seven foot tall fence if the top one-foot is a lattice design, or masonry wall of acceptable design, shall be provided along the edge(s) of any public parking areas adjacent to residentially zoned property to protect these residential properties from the interruption and nuisances of the vehicles using the parking areas.

12. A barrier curb or wheel stop at least six (6") inches in height shall be provided adjacent to landscaping which a vehicle cannot overhang, buildings, and other areas to prevent damage to these facilities by the vehicles utilizing the parking areas.

g. *Maintenance and Operation.* All required parking facilities shall be provided and maintained in a safe and functional condition so long as the use exists which the parking facilities were designed to serve. Off-street parking facilities shall not be reduced in total area, except when such reduction is in conformity with the requirements of this Chapter.

h. *Common Parking Facility.* Nothing in this Chapter shall be construed to prevent the joint use of off-street parking for two or more land uses on the same property if the total of such spaces when used together shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the requirements of this Chapter.

i. *Number of Required Spaces.* Off-street parking spaces shall be provided for each land use on the basis of the following schedules:

1. Hotels and motels: One (1) space for each sleeping unit;

2. Hospitals: One (1) space for each two (2) beds;

3. Sanitariums, convalescent homes, rest homes, nursing homes: One (1) space for each three (3) beds;

4. Churches: One (1) space for each three (3) seats;

5. Bowling alleys: Seven (7) spaces for each alley, plus one (1) space for each two (2) employees;

6. Rooming and lodging houses: One (1) space for each bedroom;

7. Theaters: One (1) space for each four (4) seats;

8. Sports arenas: One (1) space for each four (4) seats;

9. Auditoriums: One (1) space for each four (4) seats;

10. Nightclubs, cocktail lounges and restaurants: One (1) space for each three (3) seats;

11. Medical and dental offices: Five (5) spaces for each doctor or dentist;

12. Banks; business and professional offices, other than medical and dental offices: One (1) space for each two hundred twenty-five (225') feet of gross floor area;

13. Retail stores and shops, except as otherwise specified herein: One (1) space for each two hundred fifty (250) square feet of gross floor area;

14. Commercial service, repair shops and wholesale establishments: One (1) space for each five hundred (500) square feet of gross floor area;

15. Retail stores which handle only bulky merchandise, such as furniture, household appliances, and motor vehicles: One (1) space for each five hundred (500) square feet of floor area;

16. Warehouses and other storage buildings: One (1) space for each one thousand (1,000) square feet of gross floor area;

17. Mortuaries: One (1) space for each fifty (50) square feet of gross floor area in chapel areas;

18. Assembly halls without fixed seats: One (1) space for each forty (40) square feet of gross floor area;

19. Retail and wholesale establishments conducted primarily outside of buildings: One (1) space for each two (2) employees;

20. For a use not specified in this section, the same number of off-street parking spaces shall be provided as are required for the most similar specified use or as may be found appropriate based on Institute of Transportation Engineers (ITE) Trip Generation Manual or other industry standards.

j. *Loading Spaces.* In any district, in connection with every building or part thereof, hereafter erected or enlarged, which is to be used for manufacturing, storage, warehousing, goods display, retail sales, wholesaling, hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly requiring the receipt or distribution by vehicles of materials, there shall be provided and maintained on the same lot with such building, off-street loading spaces as per the following schedule:

10,000—20,000 square feet of gross floor area, one (1) space;

20,001—30,000 square feet of gross floor area, two (2) spaces;

30,001—45,000 square feet of gross floor area, three (3) spaces; and

45,001—75,000 square feet of gross floor area, four (4) spaces.

Plus one space for each additional seventy-five thousand (75,000) square feet of gross floor area.

In addition, the following requirements shall be provided:

1. No loading operation for any use required to provide off-street loading space, nor the parking of any vehicle incident to such loading operation, shall be permitted within any street right-of-way.

2. Each off-street loading space shall have a minimum width of ten (10') feet, a minimum length of thirty-five (35') feet, and a minimum clear-height of fifteen (15') feet.

3. Off-street loading spaces required by this section shall be separately and permanently maintained as such, and shall be used only for this purpose. No part of a required loading space shall be encroached upon by buildings, storage, or any other activity.

4. Each off-street loading space shall be accessible from a public street and shall not be located within the required front yard or side yard, nor cause trucks to encroach upon the front yard or side yard during the process of loading or unloading.

k. *Variances.* Variances for any of the requirements in this article may be granted by the decision making authority.

(Ord. #2015-06, §2)

32-1.15 Site Obstructions at Intersections.

a. *Obstructions Prohibited.* No structure (including but not limited to fences, retaining walls, and signs) or vegetation which obstructs the visibility of and from vehicles approaching the intersection of a State highway, public or private road, or street with another State highway, public or private road, or street, shall be constructed, grown, maintained or permitted higher than two and one-half (2 1/2') feet above the curb grade, or three (3') feet above the edge of pavement, within a triangular area bounded by the right-of-way lines and a diagonal line joining points on the right-of-way lines twenty-five (25') feet back from the point of their intersection or in the case of rounded corners, the triangular area between the tangents to the curve of the right-of-way or vehicular access easement line and a diagonal line joining points on the tangents twenty-five (25') feet back from the point of their intersection. The tangents referred to are those at the beginning and at the end of the curve of the right-of-way line at the corner.

b. *Exceptions.* This chapter shall not apply to existing public utility poles, or existing permanent structures or existing supporting

members of appurtenances thereof; official traffic signs or signals; or corners where the contour of the land itself prevents visibility.

c. *Violation - Notice.* If the Town determines that a violation of this Chapter exists, written notice shall be given to the owner, tenant, or person having possession, charge or control of the premises on which the violation exists. The notice may be given by registered or certified mail. The notice shall designate the obstruction and shall direct that the obstruction be removed within ten days after receipt of the notice. The notice shall also recite the right of appeal provided for in subsection 32-4.7. It is unlawful for the person to whom the notice is addressed to fail to remove the obstruction within the ten day period unless within the period an appeal is filed as provided for in subsection 32-4.7.

d. *Appeal.* The owner, tenant, or person having possession, charge or control of premises may appeal the determination of the Town under subsection 32-4.7, or may seek a variance from the terms of this chapter.. Upon such application, the decision making authority may review the determination of the Town, if the application is an appeal therefrom, and in any case if it determination of the Town, if the application is an appeal therefrom, and in any case if it determines that a violation of this chapter exists or is proposed or planned, may grant, grant conditionally, or refuse to grant a variance from the terms of this chapter.

e. *Removal after Appeal.* Within ten days after the decision making authority determines that the obstruction must be removed, the applicant shall remove the obstruction.

(Ord. #2015-06, §2)

ARTICLE II

DEFINITIONS

32-2 DEFINITIONS GENERALLY.

32-2.1 Construction and Use of Tenses.

a. The definitions in this section govern the construction of this chapter, unless the context otherwise requires.

b. Unless the natural construction of the word includes otherwise, the present tense includes the future and the plural number the singular.

(Ord. #2006-06, § 1; Ord. #2015- 07, § 2)

32-2.2 Additional Definitions.

Additional definitions related to specific zoning districts or regulations can be found in the following subsections: 32-22.2 - Single Family Residential Districts; 32-45.2 - Downtown Business District; 32-69.2 - Scenic Hillside and Major Ridgeline Development; 32-70.3 - Wireless Communication Facilities; 32-72.2 - Historic Preservation; 32-73.4 - Inclusionary Housing; 32-74 - Density Bonus; 32-76.2 - Accessory Dwelling Units; 32-93.2 - Dry Cleaning Plants; 32-94.1 - Medical Marijuana Dispensaries; 32-98.3 - Sign and Outdoor Advertising; 32-106.2 - Adult Entertainment Businesses; 32-115.2 - Land Dedicated for School Purposes; 32-117.4 - Flood Damage Prevention; 32-126.2 - Child Care Facilities; 32-130.3 - Satellite Antennas and Microwave Equipment.

(Ord. #2015-07, § 2)

32-2.3 Words and Phrases Defined.

As used in this chapter

Abut or *abutting* shall mean having property lines, street lines, building lines, and/or zoning boundaries in common.

Accessory dwelling unit shall mean a dwelling unit, attached or detached to the primary dwelling, which provides complete independent living facilities with accommodations for a kitchen, living, sleeping, eating, and bathroom on the same parcel as a primary structure on a residentially zoned site. Accessory dwelling units shall be consistent with the requirements of Section 32-76.

Accessory structure shall mean a structure that is physically detached from, secondary and incidental to, and commonly associated with a primary structure on the same parcel. Accessory structures include garages, car ports, greenhouses, gazebos, sheds, arbors, pergolas, cabanas, pools, spas, play structures, and similar structures. An Accessory Dwelling Unit as described in Section 32-76, fences, and retaining walls shall not be considered accessory structures for purposes of this chapter.

Accessory use shall mean a use customarily incidental to, related but clearly subordinate to a primary use on the same parcel.

Affordable units. Living units that are required to be related at affordable rents or available at affordable housing costs to specified households.

Agriculture shall mean the tilling of soil, the raising of crops, horticulture, dairying, and the raising and managing of livestock, including all uses customarily incident but not including slaughterhouses, fertilizer yards, bone yards, plants for the reduction of animal matters, or any other industrial use which may be objectionable because of odor, smoke, dust, or fumes.

Apartment unit shall mean a room or a group of related rooms, among similar sets in one (1) building, including facilities for cooking, sanitation, plumbing, heat, light and ventilation, and means of ingress and egress, designed for and occupied by one (1) or more persons living as a single housekeeping unit, and usually leased as a dwelling.

Aviary shall mean a coop, pen, cage, or other similar enclosure, used to house one (1) or more birds other than poultry.

Basement shall mean any area of a building which is wholly or partially below ground level. If not wholly below ground, the ceiling of

the basement area cannot be located more than six (6) feet above the adjacent finished grade.

Bed and Breakfast shall mean a small lodging establishment that offers overnight accommodations and breakfast with no more than five (5) rooms available for commercial use.

Building shall mean any structure with a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals, or property.

Building height shall mean the vertical distance between the average of the highest and lowest pad elevation within the footprint of the structure (measured at natural grade or finished grade, whichever is lower) to the highest point of the structure. Architectural projections such as spires, weather vanes, and chimneys may extend an additional three (3) feet above the applicable height limit. For building height in a scenic hillside or major ridgeline area, see Section 32-69.

Business offices shall mean business such as, but not limited to the following:

a. Advertising agencies;

b. Answering services;

c. Corporate headquarters;

d. Employment agencies;

e. Insurance;

f. Investment brokers or representatives;

g. Laboratories;

h. Newspapers;

i. Photographers, artists, etc.;

j. Public relations;

k. Administrative services; and

l. Entrepreneurs.

Cabana shall mean a structure, typically constructed for use in conjunction with the use of a swimming pool and/or a spa, that provides shade, may be used as a dressing room, may include bathroom facilities (i.e., toilet, sink, bathtub and/or shower facilities) and may include partial kitchen amenities (i.e., refrigerator, sink, dishwasher, but no stove or oven).

Cemetery shall mean land which is used or dedicated for any one (1) or a combination of more than one (1) of the following land uses:

a. A burial park for earth interments;

b. A mausoleum for crypt or vault interments;

c. A columbarium for cinerary interments.

Child care center shall mean a commercial facility established for the caring for and supervision of fifteen (15) or more children. A child care center includes the care of children of all ages, including pre-school, nursery school, and day care.

Conditioned space shall be defined as an area or room that is being heated or cooled for human habitation.

Contractor's yard, including corporation yards, public utility yards or general service yards shall mean buildings and premises used for the storage and maintenance of equipment and materials involved in construction, installation, maintenance, and/or landscaping, on other property.

Court shall mean an open space, other than a yard, on the same lot with a building or buildings, which is unoccupied and unobstructed from the ground upward.

Court; inner shall mean a court enclosed either in whole or part on all sides by buildings.

Court; outer shall mean a court which extends to a street line or extends to or opens on a front, side, or rear yard.

Day Care Home, Large Family or Large Family Day Care Home shall mean an in-home child care operation that provides care for between nine (9) and fourteen (14) children and is in compliance with Section 1574.65 of the California Health and Safety Code.

Day Care Home, Small Family or Small Family Day Care Home shall mean an in-home child care operation providing care for a maximum of eight (8) children and is in conformance with Section 1597.44 of the California Health and Safety Code.

District shall mean a portion of the Town of Danville ("Town") within which certain uses of land, buildings, and structures are permitted; certain other uses of land, buildings, and structures are not permitted; portions of certain yards and other open spaces are required, and certain minimum lot areas, development standards and maximum heights are established for land, buildings and structures, under the regulations of this chapter.

Dry cleaning plants shall mean the physical part of a dry cleaning business which involves the use of chemicals to process and clean clothing, draperies and other textile products.

Duplex shall mean a detached building or part of it, designed for occupation as the residence of two (2) families living independently of each other.

Family shall mean an individual or collective body of persons in a domestic relationship whose members are an interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, sharing household activities and responsibilities such as meals, chores, household maintenance and expenses. If the unit is rented, this means that all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease for the entire dwelling, with the joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager.

Farming; small shall mean horticulture on a small area of land and the raising and keeping of fowl or livestock as specified within the applicable zoning district ordinance.

Fence shall mean a constructed barrier of wood, metal, masonry, or other material that is intended to enclose, separate, define, secure, protect, and/or screen one (1) or more areas of a site, including open wire fencing, decorative metal or wrought iron, chain link fence, or safety fencing.

Flag Lot shall mean a lot with a fee ownership strip extending from a vehicular right-of-way or access easement to the buildable area of the lot.

Frontage, primary or *primary frontage or front* shall generally mean the side of a lot which abuts a road, street, highway, right-of-way, or vehicular access easement towards which the front of the primary residence is oriented and/or where the primary residence's driveway is located between the street and the garage.

Frontage, secondary or secondary frontage or front shall generally mean the side of a lot which abuts two (2) or more roads, streets, highways, right-of-ways, or vehicular access easements which is not determined to be the primary frontage as defined herein.

Garage, private or *Private garage* shall mean a structure, or portion thereof, in which only private or pleasure-type motor vehicles used by the owners or resident tenants of the site are stored or kept.

Heritage resource means a structure, site, improvement or natural feature that has been designated for heritage preservation pursuant to Section 32-72.6.

Heritage tree means any single trunked tree in Town, regardless of species, which has a trunk diameter of thirty-six (36) inches or greater measured four and one-half (4-1/2) feet above the ground.

Home occupation shall mean the narrow range of commercial or professional activities, conducted as incidental and accessory uses to the residential use of a property (see Section 32-22.5.b for development standards).

Horticulture shall mean the science of agriculture involving the skill or occupation of cultivating plants, especially flowers, fruit, and vegetables, in gardens or greenhouses. Horticulture involves working small plots of land with the aid of only simple gardening tools.

Hotel or motel shall mean a building or part of it containing six (6) or more guest rooms designed, intended to be used, or used by six (6) or more persons for money, goods, services, or other compensation. Excepted are Group Homes, Community Care Facilities, and Transitional or Supportive housing as may be allowed or conditionally allowed under this chapter.

Kennel shall mean any lot, building, structure, enclosure, or premises where one (1) or more dogs or cats are kept or maintained for commercial purposes, excluding places where veterinarians board animals for medical care only.

Livestock shall mean domestic hoofed animals such as horses, donkeys and mules or domestic cattle, goats, sheep, llamas, or swine.

Lot shall mean an area of land occupied by, or to be occupied by, a building or buildings and structures accessory thereto, together with such open and yard spaces as are required by this chapter in computing the area of a lot, those portions lying within the boundaries of an existing or proposed public or private road, street, State highway, right-of-way, or easement owned, dedicated or used for purposes of vehicular access to the lot shall not be included in order to satisfy minimum area, yard or dimensional requirements.

Lot; average width or *Average lot width* is the total area of the lot divided by the depth of the lot.

Lot depth or *Depth of a lot* shall mean the distance perpendicular to the frontage to the point of the lot farthest from the frontage.

Lot, double frontage or *double frontage lot* shall mean a lot with a vehicular right-of-way or vehicular access easement along two (2) non-contiguous property lines.

Lot frontage or *Frontage of a lot* shall mean the distance measured between the two (2) points on the principal road, street, or access that are farthest apart.

Multiple family building shall mean a single building or structure containing multiple dwellings, including townhouses, condominiums, and apartments.

Nonconforming structure shall mean a structure that was legally established and maintained that does not conform to this chapter for the district in which it is situated, and does not comply with the current setback, height limit, and/ or other applicable requirements of this chapter.

Nonconforming use shall mean a use of land and/or a structure (either conforming or nonconforming) that was legally established and maintained that does not conform to this chapter for the district in which it is situated.

Nonconforming use, legal shall mean a use that does not conform to these regulations which was in existence prior to adoption of this

chapter.

Personal service uses shall mean businesses providing services such as, but not limited to beauty shops, barbers, and nail salons. Personal service uses are those which provide on-site service to customers as their primary activity and which are compatible with the immediate area.

Primary use shall mean the main purpose for which a site is developed and occupied, including the activities that are conducted on the site a majority of the hours during which activities occur.

Professional offices shall be such as those pertaining to, but not limited to, the practice of law, architecture, dentistry, medicine, engineering, accounting, administrative, executive, editorial, and consulting.

Protected tree means a tree of a specific species or size, as described under Section 32-79, which cannot be disfigured, damaged, or removed within the Town of Danville without obtaining a Tree Removal Permit from the Town.

Public uses shall mean uses such as, but not limited to, meeting rooms, theaters, auditoriums, libraries, etc.

Retail uses shall mean businesses selling items, or providing services such as, but not limited to the following:

a. Accessories;

b. Antiques/clocks;

c. Appliances;

d. Arts/crafts;

e. Bakery/candy/creamery;

f. Books;

g. Clothing/shoes;

h. Copying/duplicating/printing;

i. Drug stores;

j. Dry goods;

k. Florist;

l. Food market/delicatessens;

m. Furniture/floor coverings;

n. Gifts;

o. Hardware;

p. Hobby items/toys;

q. Interior decorator with goods;

r. Jewelry;

s. Linens;

t. Liquor/tobacco;

u. Luggage;

v. Music;

w. Newsstand/office supply and machines, stationary/cards;

x. Optical goods and service;

y. Paint/wallpaper;

z. Pets;

aa. Photo supply/photo processing;

bb. Picture framing/art gallery/artist supply;

cc. Portrait studios;

dd. Post office/parcel service;

ee. Saddlery;

ff. Shoe/garment repair with goods;

gg. Sporting goods/bicycles;

hh. Stamps/coins;

ii. TV/radio; and

jj. Travel agencies.

Service commercial shall mean uses that provide on-site service to customers as their primary activity and which are compatible with the immediate area. Business activities included in this category shall mean, but are not limited to, the following:

a. Business or professional, schools;

b. Cultural improvement schools such as, but not limited to, music, dance and martial arts;

c. Health/fitness club; and

d. Places of cultural entertainment including museums, libraries and theaters.

Service office uses shall mean businesses such as, but not limited to, the following:

a. Escrow/title/notary public;

b. Financial institutions/banks/savings and loan;

c. Investment brokers/mortgage brokers;

d. Public utilities; and

e. Real estate.

Short term rental shall mean the rental or lease of any primary or secondary dwelling unit, or any portion thereof, for a period of less than 30 days.

Sight distance triangle shall mean the triangular area bounded by the right-of-way lines (public or private) which approach a corner and a diagonal line joining points on the right-of-way lines twenty-five (25) feet back from the point of their intersection, or in the case of rounded corners, the triangular area between the tangents to the curve of the right-of-way line and a diagonal line joining points on the tangents twenty-five (25) feet back from the point of their intersection. The tangents referred to are those at the beginning and at the end of the curve of the right-of-way line at the corner.

Sign shall be broadly construed to include an advertisement, name, figure, character, delineation, announcement, advertising structure, device, symbol or logo and any other thing of a similar nature designed to identify a person, business, commodity or service or otherwise attract attention. A "sign" shall include outdoor advertising displays, such as a street clock, barbershop pole or similar device used to identify a particular type of business activity. A "sign" shall not include a display of merchandise which is available for sale on the premises, nor shall it include a sign maintained entirely within a building which is more than three (3') feet behind a window in the building.

Single family residence shall mean a room or group of permanently affixed internally connected rooms that do not share any walls in common with another dwelling unit, and includes sleeping, eating, and sanitation facilities. This definition includes factory-built, modular housing units, constructed in compliance with the Uniform Building Code, and manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of 1974, placed on permanent foundations. Attached single family residences, including condominiums, townhouses, and row houses are included under the definition of "multifamily dwelling." A detached single family residence may include an accessory dwelling unit which is in conformance with Section 32-76.

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 basement or cellar is more than six (6) feet above the ground adjacent to the building for more than fifty percent (50%) of the total perimeter, such basement, cellar or unused under-floor space shall be considered a story not a basement.

Story, half or *Half story* shall mean that portion of a building under a gable, hip or gambrel roof, the top wall plat of which on at least two (2) opposite exterior walls are not more than three (3) feet above the floor of such building portion.

Storage shed, portable or *portable storage shed* shall mean those structures that are freestanding and moveable, have no permanent foundation, are less than one hundred twenty (120) square feet in area, and have a building height no greater than eight (8) feet as measured at the highest pitch of the roof, and contain no plumbing or electrical installations.

Structure shall mean anything constructed or erected on and attached to land, except: (1) fences with a maximum height of six (6) feet, or retaining walls with a maximum height of three (3) feet or any combination thereof not over six (6) feet high; (2) sidewalks, at grade patios or other flat work, gateways, pipes, meters, meter boxes, manholes, and mailboxes; and (3) poles, wires, pipes and other devices, and their appurtenant parts, for the transmission or transportation of electricity and gas for light, heat or power, or of telephone and telegraphic messages, or of water.

Viticulture shall mean the science, art, or process of cultivating grapevines and the growing of grapes.

Wireless communication facility means an unstaffed facility, generally consisting of antennas, an equipment cabinet or structure, and related equipment, which receives and/or transmits radio frequency signals.

Yard; front or *Front yard* shall mean an open area extending across the front of a lot, measured toward the rear of the lot to the nearest line of any building on it. The area between the setback line and the boundary line that determines the position of the setback line shall constitute the front yard of the lot.

Yard; rear or *Rear yard* shall mean an open area extending across the rear of a lot, measured from the rear line toward the front to the nearest line of any building on the lot.

Yard; side or *Side yard* shall mean an open area between each line of a lot and the nearest line of any building on the lot and extending from the front line to the rear line of the lot.

(Ord. #2015-07, § 2; Ord. #2016-02, § 2)

ARTICLE III

PLANNING APPLICATIONS

32-3 PLANNING APPLICATIONS.

32-3.1 Purpose.

The purpose of this section is to define activities which require approval of a planning application and to provide for standards of review.

(Ord. #2015-08, § 2)

32-3.2 Planning Applications Required.

All planning applications shall be submitted to the Planning Division. Any application can be submitted concurrently with other applicable planning applications. The decision making authority and review process for each type of planning application is specified under Article IV.

(Ord. #2015-08, § 2)

32-3.3 Development Plan.

Approval of a Development Plan application is required prior to the issuance of a building permit or grading permit as follows:

a. *Downtown Development Plan:* No development is permitted within the Downtown Business District unless a Development Plan application has been approved by the Town, as detailed within Section 32-45 - Downtown Business District.

b. *Scenic Hillside and Major Ridgeline Development Plan:* No development is permitted within a Town-identified Scenic Hillside or Major Ridgeline area unless a Development Plan application has been approved by the Town, as detailed within Section 32-69 - Scenic Hillside and Major Ridgeline Development. Town-identified Scenic Hillside and Major Ridgeline areas are depicted on Figure 10 within the Danville 2030 General Plan.

c. *Historic Development Plan:* No development or modification to an identified historic resource is permitted unless a Development Plan application has been approved by the Town, as detailed within Section 3272 - Historic Preservation. Development shall also be subject to the design standards contained within the Town's Design Guidelines for Heritage Resources.

d. *Accessory Dwelling Unit Development Plan:* No accessory dwelling unit greater than 1,000 square feet in size, or requiring approval of a variance or exception, is permitted unless a Development Plan application has been approved by the Town, as detailed within Section 32-76 - Accessory Dwelling Units.

e. *Commercial Development Plan:* No new building, building addition, exterior remodel, repainting including a change in paint colors where the paint colors were previously approved through a Development Plan review process, or significant modifications to landscaping or hardscapes is allowed within any commercial, industrial, or office district without the approval of a Development Plan application.

f. *Residential Development Plan:* A residential Development Plan application may be required prior to construction of any residential unit on a lot created as a result of the Town's approval of a new residential subdivision, as may be specified as part of the conditions of approval for individual subdivision approvals.

g. *Preliminary Development Plan and Final Development Plan:* Approval of a Preliminary Development Plan and Final Development Plan application is required in conjunction with a P-l; Planned Unit Development rezoning and development, as detailed within Section 32-63 - P-l Planned Unit District.

(Ord. #2015-08, § 2)

32-3.4 General Plan Amendment.

Approval of General Plan Amendment application is required to allow for any modification to the text or any figure contained within the Danville General Plan. An application for a General Plan Amendment shall include a completed application form, a description of the justification for the request, and any other information found to be necessary by the Town to allow for the thorough review of the merits of application.

(Ord. #2015-08, § 2)

32-3.5 Land Use Permit.

Approval of a Land Use Permit is required prior to the establishment of any use of land listed as a conditional use, or those found to be comparable to those listed as a conditional use, within any zoning district, as established under this chapter. A Land Use Permit may also be required in order to regulate certain operational characteristics of an allowed land use, such as parking demand, as may be found to be necessary to assure that the land use complies with all applicable development standards, or to allow the re-establishment, modification, or expansion of a non-conforming use. In order to approve a Land Use Permit application, the following findings of fact must be made:

a. The proposed land use shall not be detrimental to the health, safety and general welfare of the Town;

b. The proposed land use shall not adversely affect the orderly development of property within the Town;

c. The proposed land use shall not adversely affect the preservation of property values and the protection of the tax base within the Town;

d. The proposed land use shall not adversely affect the policy and goals as set by the General Plan;

e. The proposed land use shall not create a nuisance and/or enforcement problem within the neighborhood or community;

f. The proposed land use shall not encourage marginal development within the neighborhood.

(Ord. #2015-08, § 2)

32-3.6 Major Subdivision.

Approval of a Major Subdivision application is required prior to the subdivision of any parcel(s) of land into five or more lots and/or parcels, as established under Chapter XXXI. Minimum development standards for the creation of new lots and/or parcels are established under this Article VI.

(Ord. #2015-08, § 2)

32-3.7 Minor Subdivision.

Approval of a Minor Subdivision application is required prior to the subdivision of any parcel(s) of land into four or fewer lots and/or parcels, as established under Chapter XXXI. Minimum development standards for the creation of new lots and/or parcels are established under Article VI.

(Ord. #2015-08, § 2)

32-3.8 Planned Unit Development.

Approval of a Preliminary Development Plan - Rezoning application is required prior to rezoning any parcel(s) of land to a P-l; Planned Unit Development zoning district, as established under Section 32-63. Any P-l; Planned Unit Development zoning district must be consistent with the zoning districts and land uses allowed under the Danville General Plan.

(Ord. #2015-08, § 2)

32-3.9 Rezoning.

Approval of a Rezoning application is required prior to rezoning any parcel(s) of land to a new zoning district. Any rezoning must be consistent with the zoning districts and land uses allowed under the Danville General Plan, and must be found to be compatible with adjacent zoning districts and uses in adjacent zoning districts. An application for a rezoning shall include the completion of an application form, a map description of the subject property, the names of adjoining streets and property owners, the zoning and General Plan designation of subject and adjoining property, the General Plan and zoning history of subject property, a description of the justification for the request and any other information found to be necessary by the Town to allow for the thorough review of the merits of application. Before approving a rezoning application, the decision making authority shall make the following findings:

a. The change proposed will substantially comply with the General Plan;

b. The uses authorized or proposed in the land use district are compatible within the district and to uses authorized in adjacent districts;

c. Community need has been demonstrated for the use proposed, but this does not require demonstration of future financial success.

(Ord. #2015-08, § 2)

32-3.10 Sign Review.

Approval of a Sign Review application is required prior to the placement of any permanent identification signage for any business in Town. Allowable sign types, standards, and requirements are detailed under Section 32-98 - Sign Control. Temporary signage, as detailed under Section 32-98, does not require approval of a Sign Review application, but does require approval of a temporary sign permit. Business identification signage is not allowed for a business operating as a home occupation within a residential zoning district.

(Ord. #2015-08, § 2)

32-3.11 Tree Removal.

Approval of a Tree Removal application is required prior to removal of any Town-protected tree. A list of Town-protected trees, Tree Removal application requirements, and Findings that are necessary to allow for approval of a Tree Removal application are detailed within Section 32-79 - Tree Protection.

(Ord. #2015-08, § 2)

32-3.12 Variance.

Approval of a Variance application is required to allow the modification of zoning regulations pertaining to the various zoning districts contained within this Chapter, such as lot area, average lot width and depth, yard setbacks, number and/or dimension of parking space, building or structure height, and floor area ratio. In order to approve a Variance application, the following findings of fact must be made:

a. That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located;

b. That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district;

c. That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located. Failure to do so shall result in a denial.

(Ord. #2015-08, § 2)

32-3.13 Zoning Text Amendment.

Approval of a Zoning Text Amendment is required to allow for the modification of any provision contained within the Danville Municipal Code.

(Ord. #2015-08, § 2)

ARTICLE IV: DECISION MAKING AUTHORITY AND REVIEW PROCESS

32-4 DECISION MAKING AUTHORITY AND REVIEW PROCESS.

***32-4.1* Purpose.**

This article provides procedures and requirements for the preparation, filing, processing, and decision making for planning application required by this Chapter.

(Ord. #2015-09, § 1)

***32-4.2* Responsible Authority - General.**

This Chapter shall be administered by the Danville Town Council, the Danville Planning Commission, the Danville Heritage Resource Commission, Design Review Board, Historic Design Review Committee, the Chief of Planning and the Planning Division, and any other Town official or body as specifically identified.

(Ord. #2015-09, § 1)

***32-4.3* Decision Making Authority for Planning Applications.**

Table 4.1 provides a summary of the review and decision making authority for each type of planning application as described under Article III.

Table 4-1

Decision Making Authority for Planning Applications

Application	*Administrative*	*Design Review Board*	*Historic Design Review Committee*	*Planning Commission*	*Heritage Resource Commission*	*Town Council*
Development Plan - Downtown - Minor	X	X[1]		X[1]		
Development Plan - Downtown - Major		X		X		
Development Plan - Scenic Hillside	X	X[1]		X[1]		
Development Plan - Major Ridgeline		X[1]		X		
Development Plan - Historic - Minor Alterations	X		X[1]		X[1]	
Development Plan - Historic - Major Alterations		X[1]	X	X	X	

Development Plan - Accessory Dwelling Unit	X	X[1]		X[3]		
Development Plan - Commercial - Minor	X	X[1]		X[1]		
Development Plan - Commercial - Major		X		X		
Development Plan - Residential	X	X[1]		X[2]		
Development Plan - Preliminary (PUD rezoning)				X		X
Development Plan - Final		X		X		X[5]
General Plan Amendment				X		X
Land Use Permit - Residential	X			X[1]		
Land Use Permit - Downtown Business District	X			X[1]		
Major Subdivision				X		
Minor Subdivision				X		
Rezoning				X		X
Sign Review	X	X[4]				
Tree Removal	X					
Variance	X					
Zoning Text Amendment				X		X

[1] Application may be referred to the Design Review Board, Historic Design Review Committee, and/or the Planning Commission or Heritage Resource Commission at the discretion by the Chief of Planning.

[2] Requires Planning Commission review only if required by the conditions of approval for the subdivision that created the lot.

[3] Requires approval by the Planning Commission if approval of a variance or exception is required.

[4] Design Review Board approval is required for a Master Sign Program or if approval of a variance or exception is required.

[5] Requires approval by the Town Council if reviewed concurrently with the Preliminary Development Plan - Rezoning application.

(Ord. #2015-09, § 1)

32-4.4 Additional Application Review Criteria.

a. Any application which is submitted concurrently with another application(s) shall be reviewed concurrently and shall be subject to review by the highest decision making authority for any of the concurrently submitted applications, as designated by this Chapter.

b. When the Town Council is the decision making authority for a planning application, the Planning Commission or Heritage Resource Commission's action will be in the form of a recommendation to the Town Council.

c. When the Planning Commission or Heritage Resource Commission is the decision making authority for a planning application, any Design Review Board or Historic Design Review Committee action will be in the form of a recommendation to those commissions.

d. When an administrative action is reviewed by the Design Review Board or the Historic Design Review Committee, the action is subject to the Town's subsequent issuance of an Appealable Action Letter.

e. Upon receiving an appeal, the body hearing the appeal shall become the decision making authority.

(Ord. #2015-09, § 1)

32-4.5 Application Preparation and Filing.

a. *Pre-Application Submittal Meeting.* All applicants are strongly encouraged to request a pre-application meeting with the Planning Division prior to submittal of the planning application. The purpose of the pre-application meeting is to:

1. Inform the applicant of Town requirements as they apply to the proposed project;

2. Review the Town's review process, possible project alternatives or revisions; and

3. Identify information and materials the Town will require with the application, and any necessary technical studies and information relating to the environmental review of the project.

b. *General Plan Amendment Study Authorization.* Prior to the submittal of an application including a request for a General Plan Amendment, the General Plan Amendment request shall be scheduled for discussion by the Town Council during a noticed public hearing. This General Plan Amendment Study Authorization public hearing shall provide an opportunity for early Town Council and neighborhood input regarding the merits and potential significant issues regarding the proposal. The Town Council may also direct that specific studies and/or reports be prepared as part of the application review process to assist in making a final determination on the application.

c. *Application Contents.* Each permit application required by this Chapter shall be filed with the Planning Division on the standard Town application form, together with all required fees and/or deposits and all other information and materials specified by the Planning Division for the specific type of application. Application requirement lists for the different types of planning application are available through the Planning Division.

d. *Qualification of Applicant.* A qualified applicant is any person or firm, or authorized agent, having a freehold interest in the subject land; or having a possessory interest entitling exclusive possession; or having a contractual interest which may become a freehold or exclusive possessory interest and is specifically enforceable. Proof of such an interest may be required. A person acting as agent for a qualified applicant must attach a copy of written authority to act.

e. *Application Fee.*

1. *Master Fee Schedule.* Planning application fees shall be as listed within the Town's Master Fee Schedule, as adopted by the Town Council.

2. *Timing of Payment.* Application fees shall be included as part of the initial application submittal. Applications shall not be deemed complete until all required fees or deposits have been paid. Failure to timely pay supplemental requests for payment of required fees and/or deposits shall be a basis for suspension of processing or approval of any planning application.

3. *Refunds and Withdrawals.* Application fees cover the Town's costs for staff review, hearings, and the other activities involved in processing applications. No refund for an application that is denied shall be issued. In the case of a withdrawal by the applicant, the Chief of Planning shall have the discretion to authorize a partial refund based upon the prorated costs to date and the status of the application at the time of withdrawal.

(Ord. #2015-09, § 1)

32-4.6 Application Review Process.

The Planning Division shall initiate the review of all planning applications. As part of the review, the Planning Division shall determine the application's consistency with the General Plan and applicable development and design standards and other requirements contained within this Chapter. Based on this Chapter, the Planning Division shall determine the decision making authority and the review process. Steps in the review process are subject to minor variation as may be found to be appropriate by the Chief of Planning.

a. *Administrative Review.* Certain applications which are subject to an administrative review process, such as Tree Removal, Sign Review, and some types of minor Development Plan and minor Land Use Permit applications, as determined by the Chief of Planning, do not require public notification. Certain applications which are subject to an administrative review process, including Variance applications and some types of minor Development Plan and minor Land Use Permit applications, as determined by the Chief of Planning, are subject to notification of surrounding property owners.

1. *Appealable Action Letter.* Action may be taken on administrative applications by the issuance of an appealable action letter prepared by the Planning Division.

b. *Non-Administrative Planning Applications.* Non-administrative planning application are subject to review and action by the decision making authority at a noticed public hearing.

1. *Distribution of Request for Comments.* Upon submittal of the planning application, the Planning Division may distribute a request for comments letter to all agencies, districts, Town divisions or departments, and any other organization or individual who may have an interest or responsibility in any aspect of the development or land use proposed by the application. The request for comments letter shall also be mailed to all property owners, as found within the latest Contra Costa County Tax Collector data base, within a 750 foot radius of the boundaries of the property, which is the subject of the application.

2. *Development Advisory Meeting.* Within 30 days of the application submittal, the Town may hold a Development Advisory Meeting to allow for joint review and discussion regarding the merits of the application and its compliance with applicable policies, practices, standards, and guidelines. Representatives of agencies, districts, Town divisions or departments, and other organizations or individuals shall be invited to the meeting as determined appropriate by the Chief of Planning.

3. *Review for Completeness.* The Planning Division shall review each application for completeness and accuracy before it is accepted as being complete. The determination of completeness shall be based on the Town's application requirements and any other

information determined to be required by the Planning Division in order confirm the proposed development or land use's compliance with the General Plan and all Town applicable policies, practices, standards, and guidelines.

4. *Notice of Incomplete Application.* Within 30 days of the date of the application submittal, the Town shall notify the applicant in writing as to whether the application has been found to be incomplete. If the application has been found to be incomplete, the notice shall specify the additional materials, information, or project modifications which are required to be submitted to complete the application.

5. *Application Resubmittal.* Upon the applicant's resubmittal of application materials, the Town shall again review the application for completeness and accuracy before it is accepted as being complete. The Town may determine that it is necessary to distribute an additional request for comments letter, and/or hold an additional Development Advisory Meeting for review of the application. Within 30 days of the date of the application resubmittal, the Town shall notify the applicant in writing as to whether the application has been found to be incomplete. If the application is found to still be incomplete, the notice of incomplete application and application resubmittal process shall be repeated until the application is deemed to be complete.

6. *Expiration of Application.* Unless otherwise agreed upon by the Town, if an applicant fails to make a resubmittal within ninety (90) days following the date of the notice of incomplete application, the application may be deemed withdrawn without any further action by the Town. After the expiration of an application, future Town consideration shall require the submittal of a new application and associated application fees.

7. *Environmental Review.* All planning applications shall be subject to the requirements of the California Environmental Quality Act (CEQA). Consistent with the CEQA, additional materials may be required to be submitted by the applicant after the application has been deemed to be complete to allow for adequate review of any identified potential environmental impacts.

8. *Design Review Board.* Planning applications which request approval of a Development Plan or a Sign Review for a Master Sign Program are subject to review by the Town's Design Review Board. Planning applications including a minor Development Plan request may require review by the Design Review Board, as determined by the Chief of Planning. The Design Review Board shall review a proposed development's architectural design, site design, landscaping design, and the design and placement of proposed signage to ensure consistency with General Plan, applicable ordinances, and adopted design standards and guidelines. For non-administrative planning applications, Design Review Board actions shall be in the form of a recommendation to the Planning Commission. Planning applications requiring review by the Design Review Board shall include as part of the proposed project plans all of the information detailed within the Town's Design Review Board Submittal Requirement Checklist.

9. *Historic Design Review Committee.* Planning applications which request approval of a Development Plan involving a major alteration to a historically significant resource, as defined under Section 32-72, are subject to review by the Town's Historic Design Review Committee. Planning applications including a Development Plan involving a minor alteration to a historically significant resource may require review by the Historic Design Review Committee, as determined by the Chief of Planning. The Historic Design Review Committee shall review a proposed development's architectural design, site design and landscaping design to ensure consistency with the General Plan, the Town's Historic Preservation Ordinance, the Town's Design Guidelines for Heritage Resources, and other excepted common practices related to exterior alterations and new construction involving a historically significant resource. For non-administrative planning applications, Historic Design Review Committee actions shall be in the form of a recommendation to the Heritage Resource Commission.

10. *Planning Commission.* The Danville Planning Commission shall be the review authority for all non-administrative planning applications except that for planning applications involving a major alteration to a heritage resource, any Planning Commission action shall be in the form of a recommendation to the Heritage Resource Commission.

11. *Heritage Resource Commission.* The Danville Heritage Resource Commission shall be the review authority for all non-administrative planning applications involving a major alteration to a heritage resource, as detailed under Section 32-76.

12. *Town Council.* The Danville Town Council is the final review authority for planning applications requesting a General Plan Amendment, a Preliminary Development Plan - Rezoning, Rezoning, or Zoning Text Amendment. The Town Council shall be the review authority for any appeal of a Planning Commission or Heritage Resource Commission action.

(Ord. #2015-09, § 1)

32-4.7 Appeal; General.

Appeal from any decision of the Planning Division, Planning Commission, or Heritage Resource Commission shall be governed by the provisions set forth in this section.

a. *Submittal of Appeal.* An appeal must be filed within ten (10) calendar days after the date of the decision which is being appealed. In order to be accepted as a valid appeal, the appellant must submit to the Planning Division a written notice of appeal, specifying the grounds for appeal, as well as the appeal fee, which shall be contained within the Town's Master Fee Schedule.

b. *Appeal Decision.* An action of any decision making authority on an appeal shall be final after 10 calendar days from the date of the action.

c. *Renewed Application After Denial.* If any planning application is denied (unless the denial is without prejudice to refiling), no new application shall be made or accepted within one (1) year after the effective date of denial, unless:

1. The applicant shows material change in the circumstances upon which the denial was based. Materially changed circumstances shall mean:

(a) The proposed development or land use is significantly different from that originally applied for; and/or

(b) The lot involved has been diminished or enlarged with the result that the proposed development or land use would be more compatible to the revised lot than the situation originally applied for; and/or

(c) There has been a change in zoning classification which significantly affects this land.

(Ord. #2015-09, § 1)

32-4.8 Judicial Review.

Any court action or proceeding to attack, review, set aside, void or annul any decision of matters listed in this Chapter or any of the proceedings, acts or determinations taken, done or made prior to such decision, or to determine the reasonableness, legality or validity of any condition attached thereto, shall be commenced within the applicable time frame specified by State law. Thereafter all persons are barred from commencing any such action or proceeding and from asserting any defense of invalidity or unreasonableness of such decisions, proceedings, acts or determinations.

(Ord. #2015-09, § 1)

32-4.9 Notification.

The Town shall provide notification of proposed actions on planning applications and/or public hearings to consider taking action on planning applications. Notification to surrounding property owners shall be based on the most recent available Contra Costa County Tax Collector property ownership data, or from other records if they at least as recent or more recent ownership and address information.

a. *Appealable Action Letter.* An appealable action letter shall be mailed directly to the applicant and property owner as listed on the planning application, and shall provide for a 10 day appeal period for the action taken. When public notification is required, the appealable action letter shall also be mailed to all property owners within a 350 foot radius of the boundaries of the property which is the subject of the application. The appealable action letter shall provide a description of the nature of the proposed application, the street address of the property involved or its legal boundary description, and the proposed date and time that the Town's action will be final. Substantial compliance with these provisions for notice is sufficient, and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this section.

b. *Notice of a Public Hearing.* Public notification of a public hearing to consider a planning application shall be mailed at least 10 calendar days prior to the hearing to all property owners within a 750 foot radius of the boundaries of the property that is the subject of the application. Notices shall state the time, date and place of the hearing, the general nature of the application, and the street address of the property involved or its legal or boundary description if it has no street address. Substantial compliance with these provisions for notice is sufficient, and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this section.

c. *Design Review Board and Historic Design Review Committee.* Posting of the meeting agenda shall serve as public notice for Design Review Board and Historic Design Review Committee meetings.

(Ord. #2015-09, § 1)

32-4.10 Staff Report.

For non-administrative planning applications, the Planning Division shall prepare a staff report to be made available to the decision making authority and the general public at least seventy two hours prior to the public hearing. A copy of the staff report shall be made available to the public at the Danville Town offices and on the Town's website prior to the meeting. The staff report shall include; a description of the development or land use requested by the planning application; an analysis of the request's consistence with the Town General Plan and all Town applicable standards, requirements, policies, practices, and guidelines; the environmental status if the project relative to the California Environmental Quality Act; a staff recommendation as to the action to be taken by the decision making authority; any other information found by the Planning Division to be relative to the decision making process.

(Ord. #2015-09, § 1)

32-4.11 Findings.

The review authority shall approve findings of fact to support any action taken on all planning applications. The recommended findings shall be based on the relevant goals and policies of the General Plan, the requirements of the relevant sections of this chapter, and the site specific circumstances related to the proposal.

(Ord. #2015-09, § 1)

32-4.12 Conditions of Approval.

As part of the approval of any planning application, the decision making authority may limit or condition the approval so as to assure consistency with the General Plan, to assure that the intent and purpose of applicable standards and regulations will be met, or as otherwise deemed advisable in its discretion as limited by applicable law. Such approval may be made subject to, but is not limited to, conditions imposing dedication, improvements, dimensional restrictions, site plan approval, architectural standards, access controls, time limits, supplemental review, phasing of improvements, nuisance or blight abatement, energy efficiency, planting or screening.

(Ord. #2015-09, § 1)

32-4.13 Time Limits for Exercising Approved Applications.

A planning application approved under provisions of this chapter shall be valid for the time periods described in this subsection. For

multi-phased projects, these time limits apply to the first phase only. A planning application shall be deemed to be exercised, used or established when a building permit is issued by the Building Division consistent with the project plans, findings, and conditions of approval as approved by the decision making authority, providing that the building permit does not expire. If no building permit is required under the Building Code, then the planning application approval shall be deemed to be exercised, used or established when clear and visible evidence is demonstrated on the subject property as to the initiation of the land use or the implementation of the entitlement granted by the approval of the planning application. Any time period established as part of the condition of approval for an application shall govern over the following time limits:

a. *Development Plan - Downtown; Historic.* Downtown and Historic Development Plan approvals shall be valid for a time period of 36 or 30 months, as established under Section 32-45.44 of this chapter.

b. *Development Plan - Scenic Hillside or Major Ridgeline; Accessory Dwelling Unit; Commercial; Residential.* Scenic hillside or major ridgeline, accessory dwelling unit, commercial, and residential Development Plan approvals shall be valid for a time period of 24 months.

c. *Planned Unit Development - Preliminary Development Plan and Final Development Plan.* Preliminary Development Plan - Rezoning and Final Development Plan approvals shall be valid for the time periods established under Section 32-63.8 of this chapter.

d. *General Plan Amendment.* A General Plan Amendment is effective 30 days after approval and does not expire.

e. *Land Use Permit.* A Land Use Permit approval within the Downtown Business District area shall be valid for a time period of 36 or 30 months, as established under Section 32-45.44 of this chapter. A Land Use Permit approval within other commercial districts, office, or industrial zoning districts shall be valid for a period of 30 months. A Land Use Permit approval within a residential zoning district shall be valid for one year.

f. *Subdivision - Major and Minor.* The approval of Major or Minor Subdivision application is valid for a time period of 30 months, as detailed under Section 31-9.9 of Chapter 31.

g. *Rezoning.* A Rezoning approval is effective 30 calendar days after the Town Council's approval of the second reading of the approval Ordinance and does not expire.

h. *Sign Review.* Approval of a Sign Review application is valid for a time period of 90 days and as detailed under Section 32-98.23 of this chapter.

i. *Tree Removal.* Approval of a Tree Removal application is valid for a time period of one year.

j. *Variance.* Approval of a Variance application is valid for a time period of one year.

k. *Zoning Text Amendment.* A Zoning Text Amendment approval is effective 30 calendar days after the Town Council's approval of the second reading of the approval Ordinance and does not expire.

(Ord. #2015-09, § 1)

32-4.14 Time Extensions.

An applicant may request an extension of time periods in Section 32-4.13. The request must be submitted in writing to the Planning Division at least 30 days prior to the expiration date, and include a showing of good cause for the need of the extension. The decision making authority which approved the application may grant time extensions as follows:

a. *Development Plan, Land Use Permit, Subdivisions, Sign Review, Tree Removal, Variance.* Up to two time extensions, each for no more than one year.

b. *Planned Unit Development - Preliminary Development Plan and Final Development Plan.* Time extensions shall be as specified under Section 32-63.8 of this chapter.

32-4.15 Land Use Permits; When Void; Time Extensions.

If a use is established according to the terms and conditions of a Land Use Permit and the use is discontinued for any reason for a period of six months, the permit shall become void and the use shall not be resumed. Upon application during the six month period by the owner and upon a showing of good cause the Chief of Planning may grant an extension not to exceed a total of six months.

(Ord. #2015-09, § 1)

32-4.16 Previously Expired Planning Applications.

Any previously approved planning application which expired, was revoked or became void under any provision of law then in effect shall not be revived by any of these provisions.

(Ord. #2015-09, § 1)

32-4.17 Revocation of Planning Application Approvals.

Planning application approvals are subject to revocation in the manner and for causes as provided in subsections 32-4.15 through 32-4.19.

(Ord. #2015-09, § 1)

32.4.18 Causes for Revocation.

An approved planning application may be revoked if the applicant, his successors or assigns, has committed or allowed the commission of any of the following acts relating to the premises, or any portion thereof, covered by the approval:

a. Continued violation of the terms, limitations or conditions of approval after notice of the violation;

b. Violation of requirements of this Code relating to the premises or activities authorized;

c. Failure to abate a nuisance after notice;

d. Any suspension or revocation of a license or permit required by another agency for the entitlement authorized by the application approval;

e. Any act or failure to act resulting in the conviction of an applicant, operator, or employee of a violation of Federal or State law, or County or Town ordinance in connection with the operation of the entitlement authorized by the application approval.

(Ord. #2015-09, § 1)

32-4.19 Revocation Hearing; Notice.

Hearing on revocation shall be scheduled by the Planning Division before the decision making authority which approved the planning application. The Planning Division shall give notice of the hearing on revocation in the same manner as on an initial hearing to approve the application.

(Ord. #2015-09, § 1)

32-4.20 Revocation Hearing Procedure.

The hearing shall be conducted according to any rules of procedures adopted for initial hearing, except that the Town shall have the burden of proving the charges and shall open and close the hearing.

(Ord. #2015-09, § 1)

32-4.21 Revocation Hearing Decision.

The decision making authority hearing the revocation shall make its findings and render in decision in writing. The decision may order additional terms, limitations or conditions of approval, a specified probationary period for correction or implementation of new requirements, a future review at a time specified, or a combination of these, or revocation.

(Ord. #2015-09, § 1)

32-4.22 Appeal from Revocation.

If the applicant is dissatisfied with the decision, he may appeal as provided in subsection 32-4.7.

(Ord. #2015-09, § 1)

32-5—32-19 RESERVED.

ARTICLE V

ZONING MAP; DISTRICTS ESTABLISHED

32-20 ZONING MAP ADOPTED.

32-20.1 Adoption of Zoning Maps with Changes.

a. *Purpose and Intent.* Sections 84-002 of the County Ordinance Code adopts as a part of the zoning regulations maps showing the land use districts as established and existing on December 12, 1978. Section 84-2.002 provided for the maintenance and updating of all changes made after December 12, 1978, in the boundaries and designations of the land use districts.

In adopting Division 84 of Title 8 (comprising Sections 84-2.002-84-84.404), it is the Town Council's intent to include in the adoption the 1978 Zoning Map of Contra Costa County together with all changes made between December 13, 1978, and July 1, 1982, in the boundaries and designations of the various land use districts to the extent that those districts classify and zone land situated in the Town of Danville.

The Town is newly incorporated and the Town Council is adopting by reference all of the land use district regulations in effect in the County on July 1, 1982, the date of incorporation. The purpose of this section is to provide that the land use districts established for territory within the Town of Danville which are designated on the maps adopted by Section 84-2.002 and updated to July 1, 1982, are adopted and continued in effect.

b. *Land Subject to Zoning.* The use of all land in the Town of Danville winch is located within the districts shown on the maps described in this section and as adopted by reference is subject to the provisions of this chapter.

(Ord. #15, §2)

32-20.2 District Amendments.

a. *Zoning Map Updated.* The planning department shall maintain a copy of the 1978 Zoning Map of Contra Costa County available

for public inspection, and shall record thereon and therein all changes made on and after December 13, 1978, in the boundaries and designations of the County's various land use districts.

b. *Future Maps*. Maps for ordinances to change County land use district boundaries or designations shall, whenever practicable, be based on the three hundred (300) or one thousand (1,000) foot scale California Coordinate System maps.

32-20.3 Districts Established.

The use of all land within the districts shown on the maps described in this chapter, is subject to the provisions of this chapter. Land is classified for the regulation of its use as set forth in this division. The land use districts as set forth in this section are established for all the Town, and the land use districts designated on the maps adopted by Section 3220 are established and classified in this Article.

R-6	Single Family Residential District
R-7	Single Family Residential District
R-10	Single Family Residential District
R-12	Single Family Residential District
R-15	Single Family Residential District
R-20	Single Family Residential District
R-40	Single Family Residential District
R-65	Single Family Residential District
R-100	Single Family Residential District
D-1	Two Family Residential District
M-30	Multiple Family Residential District
M-25	Multiple Family Residential District
M-20	Multiple Family Residential District
M-13	Multiple Family Residential District
M-8	Multiple Family Residential District
A-1	Light Agricultural District
A-2	General Agricultural District
A-4	Agricultural Preserve District
O-1	Limited Office District
G-1	Interchange Transitional District
R-B	Retail Business District
C	General Commercial District
L-I	Light Industrial District
P-1	Planned Unit District

32-21 RESERVED.

ARTICLE VI

DISTRICT REGULATIONS

32-22 SINGLE FAMILY RESIDENTIAL DISTRICTS.

32-22.1 Purpose.

The purposes of the single family residential districts are to:

a. Assure that future development complement Danville's existing small town character and established quality of life.

b. Integrate new development in a manner that is visually and functionally compatible with the physical character of the surrounding community.

c. Preserve, protect and enhance appropriately located areas for residential land use, consistent with the Town-wide design guidelines, the General Plan and with standards of public health and safety.

d. Minimize the impacts of uses, protect residents from the harmful effects of excessive noise, overcrowding, excessive traffic, insufficient parking and other adverse environmental effects.

e. Ensure adequate provisions for sites, with reasonable access to public services, for appropriate public and semipublic land uses, including care facilities, needed to complement residential development or that require a residential environment. At the same time, protect the relatively quiet, primarily noncommercial, family atmosphere of neighborhoods.

(Ord. #2014-03, § 2)

32-22.2 Definitions.

Words and Phrases as used in the Chapter Defined.

Abut or *abutting* shall mean having property lines, street lines, building lines, and/or zoning boundaries in common.

Accessory dwelling unit shall mean a dwelling unit, attached or detached to the primary dwelling, which provides complete independent living facilities with accommodations for a kitchen, living, sleeping, eating, and bathroom on the same parcel as a primary structure on a residentially zoned site. Accessory dwelling units shall be consistent with the requirements of Section 32-76.

Accessory structure shall mean a structure that is physically detached from, secondary and incidental to, and commonly associated with a primary structure on the same parcel. Accessory structures include garages, car ports, greenhouses, gazebos, sheds, arbors, pergolas, cabanas, pools, spas, play structures, and similar structures. An Accessory Dwelling Unit as described in Section 32-76, fences, and retaining walls shall not be considered accessory structures for purposes of this section.

Accessory use shall mean a use customarily incidental to, related but clearly subordinate to a primary use on the same parcel.

Animal, domestic or *Domestic animal* shall mean any animal customarily kept by humans for companionship, including domesticated dogs and cats, non-restricted birds (e.g., canaries, parrots, parakeets, and the like), rabbits or hares, and hamsters, mice, guinea pigs and similar animals.

Antenna, private or private antenna shall mean a system of wires, rods, reflecting discs or similar devices used for the wireless transmission or reception of electromagnetic waves for the sole benefit of the occupant of the residential structure.

Apartment unit shall mean a room or a group of related rooms, among similar sets in one (1) building, including facilities for cooking, sanitation, plumbing, heat, light and ventilation, and means of ingress and egress, designed for and occupied by one (1) or more persons living as a single housekeeping unit, and usually leased as a dwelling.

Arbor shall mean an attached or detached structure, which is generally constructed with a non-solid roof design, used to define a point of entry or to denote the division of two (2) areas. Arbors are often constructed with latticework and covered with climbing shrubs or vines.

Aviary shall mean a coop, pen, cage, or other similar structure which serves as an enclosure to house one (1) or more birds, other than poultry.

Basement shall mean any area of a building which is wholly or partially below ground level. If not wholly below ground, the ceiling of the basement area cannot be located more than six (6) feet above the adjacent finished grade.

Bed and Breakfast shall mean a small lodging establishment that offers overnight accommodations and breakfast with no more than five (5) rooms available for commercial use.

Breezeway shall mean a roofed, open-sided structure serving as a passageway connecting structures and/or buildings.

Building shall mean any structure with a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals, or property.

Building height shall mean the vertical distance between the average of the highest and lowest pad elevation within the footprint of the structure (measured at natural grade or finished grade, whichever is lower) to the highest point of the structure. Architectural projections such as spires, weather vanes, and chimneys may extend an additional three (3) feet above the applicable height limit. For building height in a scenic hillside or major ridgeline area, see Section 32-69.

Cabana shall mean a structure, typically constructed for use in conjunction with the use of a swimming pool and/or a spa, that provides shade, may be used as a dressing room, may include bathroom facilities (i.e., toilet, sink, bathtub and/or shower facilities) and may include partial kitchen amenities (i.e., refrigerator, sink, dishwasher, but no stove or oven).

Cemetery shall mean a spatially defined area where the remains of dead people or domestic pets are buried or otherwise interred, which may include any one or any combination of following:

1. A burial park for earth interments;
2. A mausoleum for crypt or vault interments; and/ or
3. A columbarium for cinerary interments.

Child care center shall mean a commercial facility established for the caring for and supervision of fifteen (15) or more children. A child care center includes the care of children of all ages, including pre-school, nursery school, and day care.

Community care facility shall mean a California Department of Social Services licensed facility that provides non-medical residential care, day treatment, adult day care, foster family agency services, including physically or mentally handicapped, incompetent persons, and abused, neglected, or medically fragile children, and Alcohol and Drug Programs (ADP) involving individuals in recovery from drug or alcohol addiction, as further defined under California Health and Safety Code Section 1502.

Contractor's yard, including corporation yards, public utility yards, or general service yards shall mean buildings and premises used for the storage and maintenance of vehicles and/or equipment and/or materials involved in construction, installation, maintenance, and/or landscaping on other property.

Cottage food operation shall mean a specialized home occupation use in a dwelling unit where low-risk food products are prepared or packaged for sale to consumers and as more particularly defined in California Health and Safety Code Section 113758, as may be amended.

Day Care Home, Large Family or Large Family Day Care Home shall mean an in-home child care operation that provides care for

between nine (9) and fourteen (14) children and is in compliance with Section 1574.65 of the California Health and Safety Code.

Day Care Home, Small Family or Small Family Day Care Home shall mean an in-home child care operation providing care for a maximum of eight (8) children and is in conformance with Section 1597.44 of the California Health and Safety Code.

Deck or platform, elevated shall mean structures that are either attached or detached from the primary structure that are greater than thirty (30) inches in height above finished grade.

Deck or platform, ground-level shall mean structures that are either attached or detached from the primary residential structure that are not more than thirty (30) inches in height above finished grade.

District shall mean a portion of Danville within which certain uses of land, buildings, and structures are permitted; certain other uses of land, buildings, and structures are not permitted; certain yards and other open spaces are required, and certain minimum lot areas, development standards, and maximum heights are established for land, buildings and structures, under the regulations of this section.

Duplex shall mean a building constructed for use as a dwelling unit and designed for occupation as the residence of two (2) families living independently of each other.

Dwelling unit shall mean a room or suite of rooms designed or occupied as separate living quarters for one (1) of the persons or groups specified as a family by this chapter.

Family shall mean an individual or collective body of persons in a domestic relationship whose members are an interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, sharing household activities and responsibilities such as meals, chores, household maintenance and expenses. If the unit is rented, this means that all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease for the entire dwelling, with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager.

Fence shall mean a constructed barrier of wood, metal, masonry, or other material that is intended to enclose, separate, define, secure, protect, and/or screen one (1) or more areas of a site, including open wire fencing, decorative metal or wrought iron, chain link fence, or safety fencing.

Flag Lot shall mean a lot with a fee ownership strip extending from a vehicular right-of-way or access easement to the buildable area of the lot.

Frontage, primary or *primary frontage or front* shall generally mean the side of a lot which abuts a road, street, highway, right-of-way, or vehicular access easement towards which the front of the primary residence is oriented and/or where the primary residence's driveway is located between the street and the garage.

Frontage, secondary or *secondary frontage or front* shall generally mean the side of a lot which abuts two (2) or more roads, streets, highways, right-of-ways, or vehicular access easements which is not determined to be the primary frontage as defined herein.

Garage, private or *Private garage* shall mean a structure, or portion thereof, in which only private or pleasure-type motor vehicles used by the owners or resident tenants of the site are stored or kept.

Greenhouse, residential or *Residential Greenhouse* shall mean temporary or permanent accessory structures typically made of, but not limited to, glass, plastic and/or fiberglass in which plants are cultivated for private, non-commercial consumption by the occupants of the site, except as allowed for as part of a Cottage Food Operation as defined under this section.

Group home or housing shall mean any living situations that are non-medical and not for temporary use that accommodates unrelated individuals, including but not limited to licensed and alcohol and drug treatment facilities, unlicensed sober living environments, licensed board and care homes for the elderly including convalescent or rest homes and nursing homes, licensed homes for minor children, licensed homes for mental patients, licensed homes for developmentally disabled, and single room occupancy (SRO) projects. Group homes typically involve a living arrangement where either support services are provided to the occupants, where cooking, living or support sanitation facilities are shared in common between the occupants, or where there is a formal program establishing rules of conduct and purpose of the facility.

Health Facility shall mean a facility, place or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation, and care during and after pregnancy. Health facilities include general acute care and psychiatric hospitals, skilled nursing facilities, intermediate care facilities including developmentally disabled, congregate care, correctional treatment facilities, and hospice facilities, and as further defined under the California Health and Safety Code Section 1250.

Home occupation shall mean the narrow range of commercial or professional activities, conducted as incidental and accessory uses to the residential use of a property.

Horticulture shall mean the science of agriculture involving the skill or occupation of cultivating plants, especially flowers, fruit, and vegetables, in gardens or greenhouses. Horticulture involves working small plots of land with the aid of only simple gardening tools.

Intermediate Care Facility shall mean twenty-four (24) hour personal care, developmentally disabled habilitation and nursing or congregate living health facility, development and supportive health services in compliance with California Health and Safety Code Sections 1267.8 and 1267.9.

Kitchen shall mean any room or space within a building used, or intended to be used, for the cooking or preparation of food, which includes all of the following: refrigerator, cooking facilities (i.e.; stove, oven, and/or range top), and sink.

Livestock shall mean domestic hoofed animals such as horses, donkeys and mules or domestic cattle, goats, sheep, llamas, or swine.

Lot shall mean an area of land occupied by, or to be occupied by, a building or buildings and structures accessory thereto, together with such open and yard spaces as are required by this chapter in computing the area of a lot, those portions lying within the boundaries of an existing or proposed public or private road, street, highway, right-of-way, or easement owned, dedicated or used for purposes of vehicular access to the lot shall not be included in order to satisfy minimum area, yard or dimensional requirements.

Lot; average width or *Average lot* width shall mean the total area of the lot divided by the depth of the lot.

Lot depth or *Depth of a lot* shall mean the distance perpendicular to the frontage to the point of the lot farthest from the frontage.

Lot, double frontage or *double frontage* lot shall mean a lot with a vehicular right-of-way or vehicular access easement along two (2) non-contiguous property lines.

Lot frontage or *Frontage of a lot* shall mean the distance measured between the two (2) points on the vehicular right-of-way or vehicular access easement that are farthest apart.

Multiple family buildings shall mean a single building or structure containing multiple dwelling units, including townhouses, condominiums, and apartments.

Nonconforming structure shall mean a structure that was legally established and maintained that does not conform to this chapter for the district in which it is situated, and does not comply with the current setback, height limit, and/or other applicable requirements of this chapter.

Nonconforming use shall mean a use of land and/or a structure (either conforming or nonconforming) that was legally established and maintained that does not conform to this chapter for the district in which it is situated.

Pergola shall mean a detached structure used to define an outdoor space, typically larger than an arbor, which characteristically uses columns and is topped with beams and open rafters to provide partial shade protection but may also be constructed with solid roof sheathing.

Personal property sales, commonly referred to as garage sales, shall mean the sale of used household or personal articles, such as furniture, tools, or clothing, held on the sellers own premises.

Porch, front or *Front porch* shall mean an architectural feature with a floor-like platform structure attached to the exterior elevation of a residence, is external to the conditioned living space, has direct access to the street level of the building, and is covered only by a roof or eave.

Primary structure shall mean the single family residence on the lot.

Primary use shall mean the main purpose for which a site is developed and occupied, including the activities that are conducted on the site a majority of the hours during which activities occur.

Residential Care Facilities shall mean California Department of Social Services licensed non-medical facilities which provide long-term care to adults or children which stay in a residential setting rather than in their own home. Occupants may include persons with chronic life threatening illness including HIV or AIDS, or the elderly. Residential care facilities provide room, board, housekeeping, supervision, and personal care assistance with basic activities such as bathing and grooming, as further defined under the California Health and Safety Code Section 1568.0831.

Sight distance triangle shall mean the triangular area bounded by the right-of-way lines (public or private) which approach a corner and a diagonal line joining points on the right-of-way lines twenty-five (25) feet back from the point of their intersection, or in the case of rounded corners, the triangular area between the tangents to the curve of the right-of-way line and a diagonal line joining points on the tangents twenty-five (25) feet back from the point of their intersection. The tangents referred to are those at the beginning and at the end of the curve of the right-of-way line at the corner.

Single family residence shall mean a room or group of permanently affixed internally connected rooms that do not share any walls in common with another dwelling unit, and includes sleeping, eating, and sanitation facilities. This definition includes factory-built, modular housing units, constructed in compliance with the Uniform Building Code, and manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of 1974, placed on permanent foundations. Attached single family residences, including condominiums, townhouses, and row houses are included under the definition of "multifamily dwelling." A detached single family residence may include an accessory dwelling unit which is in conformance with Section 32.76.

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 basement or cellar is more than six (6) feet above the ground adjacent to the building for more than fifty percent (50%) of the total perimeter, such basement, cellar or unused under-floor space shall be considered a story not a basement.

Story, half or *Half story* shall mean that portion of a building under a gable, hip or gambrel roof, the top wall plat of which on at least two (2) opposite exterior walls are not more than three (3) feet above the floor of such building portion.

Storage shed, portable or *portable storage shed* shall mean those structures that are freestanding and moveable, have no permanent foundation, are less than one hundred twenty (120) square feet in area, and have a building height no greater than eight (8) feet as measured at the highest pitch of the roof, and contain no plumbing or electrical installations

Structure shall mean anything constructed or erected on and permanently attached to land, except: (1) fences with a maximum height

of six (6) feet, or retaining walls with a maximum height of three (3) feet or any combination thereof not over six (6) feet high; (2) sidewalks, at grade patios or other flat work, gateways, pipes, meters, meter boxes, manholes, and mailboxes; and (3) poles, wires, pipes and other devices, and their appurtenant parts, for the transmission or transportation of electricity and gas for light, heat or power, or of telephone and telegraphic messages, or of water.

Supportive housing shall mean housing with no limit on length of stay, that is occupied by a target population, and that is linked to on or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximize his or her ability to live and, when possible, work in the community, as defined under California Government Code Section 65582(f).

Target population shall mean persons with low incomes who have one (1) or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people, as defined under Government Code Section 65582(g).

Transitional housing shall mean buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and circulation 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 of the assistance, as defined under California Government Code Section 65582(h).

Trellis shall mean an attached or detached structure, characteristically constructed with a tighter weave of open framework or intersecting pieces called lattice, typically with a horizontal design to shade spaces or vertically to divide them.

Viticulture shall mean the science, art, or process of cultivating grapevines and the growing of grapes.

Yard; front or *Front yard* shall mean an open area extending across the front of a lot, measured toward the rear of the lot to the nearest line of any building on it. The area between the setback line and the boundary line that determines the position of the setback line shall constitute the front yard of the lot.

Yard; rear or *Rear yard* shall mean an open area extending across the rear of a lot, measured from the rear line toward the front to the nearest line of any building on the lot.

Yard; side or *Side yard* shall mean an open area between each line of a lot and the nearest line of any building on the lot and extending from the front line to the rear line of the lot.

(Ord. #2014-03, § 2)

32-22.3 Allowed Uses.

a. The following uses are allowed in all single family residential districts (i.e., the R-6, R-7, R-10, R-12, R-15, R-20, R-40, R-65, and R-100 Single Family Residential Districts):

1. A detached single family dwelling on each lot and the accessory structures and uses normally auxiliary to it;

2. Horticulture and viticulture;

3. Raising or keeping of domestic animals, with a limit of three (3) dogs and/or three (3) cats over the age of four (4) months;

4. Publicly or privately owned parks and playgrounds;

5. Group Homes including Community Care Facilities and Residential Care Facilities where six (6) or fewer persons reside or receive care, consistent with state law;

6. Intermediate Care Facilities where six (6) or less persons reside or receive care, consistent with state law;

7. Health Facilities where six (6) or fewer persons reside or receive care, consistent with state law;

8. Transitional housing where no more than six (6) persons reside, consistent with state law;

9. Supportive housing where no more than six (6) persons reside, consistent with state law;

10. A small family day care home where the small family day care home operates in addition to the residential use of the property, not including the licensee or members of the licensee's family or persons employed as facility staff;

11. Aviaries which comply with subsection 32-22.9.b. and which are maintained in a sanitary manner as determined by the Health Department;

12. A cottage food operation complying with this section;

13. Home Occupations complying with this section;

14. Personal property sales complying with this section;

15. Accessory dwelling units that have one thousand (1,000) square feet or less of conditioned living space and comply with Section 32-76 (Accessory Dwelling Unit Ordinance);

16. Residential greenhouses, under three hundred (300) square feet;

b. In addition to the above uses, the following uses are permitted in the R-20, R-40, R-65 and R-100 districts:

1. The raising of a maximum of ten (10) hens or rabbits in the R-20 and R-40 zoning districts and a maximum of twenty (20) hens or rabbits in the R-65 and R-100 zoning districts. No roosters shall be permitted in any residential zoning district.

2. Keeping livestock on lots forty thousand (40,000) or more square feet in area. The lot must be at least forty thousand (40,000) square feet for each two (2) head of livestock and all contiguous in one fee ownership. On lots over forty thousand (40,000) square feet, the owner is allowed one (1) head of livestock per each additional twenty thousand (20,000) square feet in area.

(Ord. #2014-03, § 2)

32-22.4 Conditional Uses; Uses Requiring a Land Use Permit and/or Development Plan Permit.

The following uses are permitted upon the issuance of a land use permit and/or development plan permit:

a. Churches and religious institutions and parochial and private schools;

b. Child care centers;

c. Large family day care home where the large family day care home operates in addition to the residential use of the property;

d. Bed and Breakfast;

e. Community buildings, clubs and activities of a quasi-public, social, fraternal or recreational character, such as golf, tennis and swimming clubs, and veterans and fraternal organizations;

f. Group Homes including Community Care Facilities and Residential Care Facilities where seven (7) or more persons reside or receive care, consistent with state law;

g. Intermediate Care Facilities where seven (7) or more persons reside or receive care, consistent with state law;

h. Health Facilities where seven (7) or more persons reside or receive care, consistent with state law;

i. Transitional Housing where seven (7) or more persons reside, consistent with state law;

j. Supportive Housing where seven (7) or more persons reside, consistent with state law;

k. Residential greenhouses, over three hundred (300) square feet;

l. Publicly owned buildings and structures (except that accessory structures forming a part of public utilities, publicly owned utilities and pipelines are not regulated by this chapter, except for setback regulations (see subsection 32-22.7);

m. An accessory dwelling unit within the range of one thousand and one (1,001) to two thousand (2,000) square feet of conditioned living space on parcels that are one (1) acre or larger in size. Additional design criteria are established under Section 32-76 of this chapter (Accessory Dwelling Unit Ordinance);

n. Horse riding academies and horse riding instruction, if the requirements listed in subsection 32-22.2, are met;

o. Private antennas, consistent with this section;

p. Wind mills erected for the production of electricity, consistent with this section;

q. Residential development on Town-identified Scenic Hillside or Major Ridgeline lots complying with Section 32-69;

r. Wireless communications facilities, complying with Section 32-70;

s. The modification or expansion of a non-conforming use or structure;

t. Uses which the Planning Commission has found, after notice and hearing, to be comparable to the above uses.

(Ord. #2014-03, § 2)

32-22.4.5 Prohibited Uses. The following uses are prohibited:

a. Short term rentals.

(Ord. #2016-02, § 3)

32-22.5 Standards for Specific Land Uses.

a. *Cottage Food Operations.* A cottage food operation (CFO) shall comply with the following requirements, which are supplemental to the home occupation requirements listed in this section. In the case of conflict between the two (2) sets of requirements, the requirements for CFOs shall take precedence:

1. The CFO operator shall provide a business narrative, site plan and floor plan to the Planning Division for review and approval, with the submittal describing the CFO activity in narrative and plan format and clearly depicting the location of CFO-related activities, the maximum gross floor area for the proposed CFO, and the seasonal aspects of the business operation.

2. CFOs shall be limited to a maximum of one (1) full-time equivalent employee (beyond family members).

3. CFOs are non-transferable to another person, location, type of food sales, distribution activity or time period of activity.

4. Direct customer sales shall be by prior appointment only and shall be limited to one (1) customer per hour during authorized sales

hours.

5. Direct customer sales and CFO-related deliveries shall be limited to the period between 8:30 a.m. and 6:00 p.m., Monday through Saturday.

6. Building additions or modifications, if any and as shown in the site plan and floor plan submittal, are subject to all other applicable codes and permits.

7. The operation shall be limited to the areas designated on the site and floor plan and shall not exceed twenty five percent (25%) or six hundred (600) square feet, whichever is less, of the gross floor area of the primary structure and not more than 600 square feet of additional gross floor area on the site in the form of accessory structures.

8. CFO-related goods to be stored, displayed, and/or sold on the premises shall be contained within the areas designated on the site and floor plan. No outside storage of CFO-related material or supplies shall be permitted.

9. There shall be no onsite consumption of CFO-related products other than small samples.

10. CFOs may not exceed gross sales levels as established by the State of California for CFOs. The CFO operator shall, upon Town request, supply copies of the CFO's most recent income tax return to verify compliance with the gross sales levels.

11. The CFO operator shall provide to the Planning Division a copy of the approved CFO registration and permit as required by the Contra Costa County Health Department.

b. *Home Occupations.* A home occupation shall comply with the following requirements:

1. A Home Occupation Application report, which provides information regarding the proposed operation of the home occupation, must be submitted in conjunction with a Business License application. After reviewing the report, the Town must determine that the activity complies with the requirements set forth in this section, with other Town ordinances, and with applicable state laws, including any state licensing requirements.

2. Client or customer visits associated with the home occupation use shall be appointment-only visits, shall be limited to a maximum of one (1) visit per hour and shall be limited to Mondays through Saturdays between 8:30 a.m. and 6:00 p.m. An exception shall be allowed for home occupation uses involving students engaged in individual home instruction, where instruction period may be expanded to the period of between 8:30 a.m. and 8:30 p.m., daily.

3. The home occupation shall not include any direct, in-person retail sales transactions conducted at the premises, except as allowed for as part of a cottage food operation as defined in this section.

4. Deliveries shall be limited to the frequency of deliveries and types of vehicles normally associated with residential neighborhoods and shall be restricted to the period between 8:30 a.m. and 6:00 p.m., Mondays through Saturdays.

5. Not more than twenty five (25%) or six hundred (600) square feet, whichever is less, of the gross floor area of the primary structure may be devoted to the home occupation and not more than six hundred (600) square feet of additional area in accessory structures may be devoted to the home occupation.

6. The home occupation shall not involve employment of help other than the members of the household and one (1) assisting non-family employee, with the one (1) non-resident employee's hours limited to the period of 8:30 a.m. and 6:00 p.m., Mondays through Saturdays.

7. Onsite parking of employee vehicles in not allowed for employees who perform functions of the home occupation away from the premises.

8. There shall be no home occupation-related exterior storage of equipment, parts, materials, supplies, merchandise, refuse, or debris. [Note: home occupation-related equipment, parts, materials, supplies, or merchandise may be stored within a permanent, fully enclosed compartment of a passenger vehicle or truck, but no refuse or debris may be stored in any vehicle].

9. There shall be no storage of hazardous chemicals other than that which would normally be found at a private residence.

10. The residential appearance of the site must be maintained, and there shall be no exterior indication of the business, including commercial advertising signs or window displays. An exception is allowed for the display of one (1) nameplate sign, measuring no more than two (2) square feet, which may be placed on the premises attached to the primary building near the business entrance, indicating the property address, name of the business, hours of operation, contact information, and the nature of the business activity conducted.

11. The required residential parking at the site shall remain available for the purpose of parking vehicles of the residents of the site.

12. Authorized business vehicles associated with home occupation business shall be limited to vehicles with a gross vehicle weight rating of under nineteen thousand five hundred (19,500) lbs. and are limited to a maximum of two vehicles in the range of fourteen thousand and one (14,001) to nineteen thousand five hundred (19,500) lbs. (i.e., limited to a maximum of two (2) Class 4 or Class 5 vehicles, as classified by the Department of Transportation's Federal Highway Administration classification for commercial trucks).

13. The home occupation use shall not result in the onsite parking of any of the following vehicles: limousines, dump trucks, tow trucks, pick-up trucks with the bed converted into a hauling compartment designed to hold materials and equipment that exceed the height of the top of the truck, construction vehicles (e.g., front-end loaders or backhoes), trailers (e.g., construction trailers, chipper trailers), construction equipment (e.g., cement mixers or chippers), or similar vehicles.

14. The home occupation business shall not be conducted in a manner that creates a public nuisance, under State law or under the

Danville Municipal Code. Without limiting the foregoing, a home occupation shall not create noise, odor, dust, vibration, smoke, electrical disturbance, or any other interference with residential uses of adjacent property and shall be invisible to the neighborhood and the home occupation shall not result in excessive use of, or unusual discharge into any one (1) or more of the following utilities: water, sanitary sewers, electrical, garbage, or storm drains.

15. The number of home occupations at one (1) address shall not be limited except the cumulative impact of authorized home occupations shall not exceed these regulations.

c. *Personal Property Sales.* Personal property sales shall comply with the following requirements.

1. The sales activities are limited to a maximum of six (6) days per calendar year;
2. Any on-site or off-site signage is removed by 6:00 p.m. following the last day of the sale;
3. The sales activities are limited to the hours between 8:00 a.m. and 6:00 p.m.; and
4. The sales activity does not result in unusually significant adverse impacts related to noise, traffic, safety, congestion, and parking.

(Ord. #2014-03, § 2)

32-22.6 Minimum Lot Area, Width and Depth. ***No single family dwelling or other structure permitted under this section may be erected or placed on a lot with less than the following minimum requirements:***

a. *Minimum Lot Area.*

Table 32-22.1	
Residential Zoning District	***Minimum Lot Area***
R-6	6,000 square feet
R-7	7,000 square feet
R-10	10,000 square feet
R-12	12,000 square feet
R-15	15,000 square feet
R-20	20,000 square feet
R-40	40,000 square feet
R-65	65,000 square feet
R-100	100,000 square feet

All public or private rights-of-way or easements for road or access purposes shall be excluded from the calculations for determining compliance with lot area minimums.

b. *Minimum Average Lot Width.*

Table 32-22.2	
Residential Zoning District	***Minimum Average Lot Width***
R-6	60 feet
R-7	70 feet
R-10	80 feet
R-12 and R-15	100 feet
R-20	120 feet
R-40 and R-65	140 feet
R-10	200 feet

c. *Minimum Lot Depth.*

Table 32-22.3	
Residential Zoning District	***Minimum Lot Depth***
R-6, R-7, R-10, R-12 and R-15	100 feet
R-20	120 feet

R-40 and R-65	140 feet
R-100	200 feet

(Ord. #2014-03, § 2)

32-22.7 Minimum Setback Requirements for a Primary Structure.

a. *General Requirements.* The primary structures on residential properties shall comply with the setback requirements of the applicable zoning district established by this section, or as otherwise allowed under this section.

b. *Minimum Primary and Secondary Front Yard Setback.*

Table 32-22.4		
Residential Zoning District	***Minimum Primary Front Yard Setback***	***Minimum Secondary Front yard Setback***
R-6, R-7, R-10, R-12 and R-15	20 feet	15 feet
R-20, R-40 and R-65	25 feet	20 feet
R-100	30 feet	25 feet

c. *Minimum Side Yards Setback.* The following minimum width requirements apply to side yards:

Table 32-22.5		
Residential Zoning District	***Minimum Side Yard Setback***	***Minimum Aggregate Side Yard Setback***
R-6 and R-7	5 feet	15 feet
R-10	10 feet	20 feet
R-12 and R-15	10 feet	25 feet
R-20	15 feet	35 feet
R-40 and R-65	20 feet	40 feet
R-100	30 feet	60 feet

d. *Minimum Rear Yards Setback.* There shall be a rear yard for any primary residence of at least:

Table 32-22.6	
Residential Zoning District	***Minimum Rear Yard Setback***
R-6 and R-7	20 feet
R-10, R-12 and R-15	25 feet
R-20, R-40, R-65, and R-100	30 feet

e. *Measurement of Setbacks for Specific Lot Configurations.* Setbacks shall be measured and applied as follows, unless different setback measurement methods are determined by the Planning Division to be required due to an unusual parcel configuration that makes the following infeasible or ineffective.

1. *Corner Lot.* Four-sided corner lots shall be considered to have a primary front yard and a secondary front yard, the two (2) interior property lines shall be treated as side yards, and there shall be no rear yard. Corner lots composed of more than four (4) property lines shall be considered to have a primary front yard and a secondary front yard, interior side yards, and a rear yard. The property line considered to be the rear yard shall be separated from either the primary front yard or the secondary front yard property line by at least one (1) side yard property line. Regardless of its location on either the primary or secondary front yard, front-loaded garages shall maintain a minimum front yard setback of twenty (20) feet.

2. *Flag Lot.* For flag lots, the front setback shall be measured from the point where the access strip meets the bulk of the lot to the nearest point of the wall of the structure.

3. *Determination of setbacks on irregular-shaped lots.* The Planning Division shall determine setbacks for irregular-shaped lots that are not covered by any of the above examples on a case-by-case basis.

f. *Second Story Setbacks Applicable to R-6, R-7, R-10, R-12, and R-15 Districts and Lots that are fifteen thousand (15,000) Square Feet or Smaller in any Other Zoning District.* The gross square footage of second story additions shall be no larger than eighty percent (80%) of the gross square footage of the ground floor of the home. Gross square footage shall be defined as the sum of the square footage of both conditioned living space and garage or other non-conditioned storage space. As a minimum, the second story addition along the primary front elevation, and secondary front elevation as applicable, shall be recessed a minimum of five (5) feet as measured vertically from the existing ground floor exterior elevations, where such additions are setback less than thirty-five (35) feet from any front property line. Where a setback of thirty-five (35) feet or more from the property line are observed for both ground floor and second story additions, the second story setbacks are waived.

g. For any single family residential lot that was created prior to July 1, 1982, side yard setbacks shall be permitted consistent with the Section 32-1.12.

h. *Projections into Setbacks.* Where allowed in the applicable District, an architectural feature that is part of the primary structure may extend beyond the wall of the structure and into a required primary front, secondary front, side, or rear yard setback in compliance with the following table.

Table 32-22.7

Allowed Projections Into Setbacks

Projecting Feature	***Primary Front Yard Setback***	***Secondary Front and Side Yard Setbacks***	***Rear Yard Setbacks***
Awnings, arbors and canopies	5 feet	24 inches	5 feet
Balcony, landing, porch, stairway - If covered but unenclosed	5 feet	24 inches	5 feet
Bay window, or similar projecting feature - Not extending into foundation	24 inches	24 inches	24 inches
Chimney/fireplace/media-niche	24 inches	24 inches	24 inches
Cornice, eave, or roof overhang	24 inches	24 inches	24 inches

(Ord. #2014-03, § 2)

32-22.8 Maximum Building Height for a Primary Structure.

No single family dwelling or other structure permitted under this section may exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height, whichever is less. Residential development within Town-identified Scenic Hillside or Major Ridgeline areas shall comply with the additional height restrictions as outlined in Section 32-69.

(Ord. #2014-03, § 2)

32-22.9 Minimum Setbacks for Accessory Structures. ***The following setback requirements apply to accessory structures allowed within the applicable zoning districts.***

a. *Yards - Accessory Structures.*

1. The primary front yard and secondary front yard setbacks requirements for the primary structure also apply to accessory structures.

2. The minimum side yard or rear yard setback for accessory structures shall be the same as the setbacks for the primary structure but may be reduced to five (5) feet if it is setback from the primary front yard proper line or secondary front yard property line is at least:

Table 32-33.8

Residential Zoning District	***Minimum Setback from the Primary Front Yard Property Line for Reduced Side or Rear Yard Setback***	***Minimum Setback from the Secondary Front Yard Property Line for reduced Side or Rear Yard setback***
R-6, R-7, and R-10	50 feet	25
R-12, R-15, and R-20	65 feet	30
R-40, R-65, and R-100	75 feet	35

b. *Setback Standards for specific types of accessory structures.*

1. *Animal Structures/Aviaries.* Where permitted within the applicable zoning district, a chicken house, rabbit hutch, or similar accessory structure provided for the housing of animals, and aviaries for housing birds other than poultry, shall be set back not less than

sixty (60) feet from the front property line or any street line, and shall be not less than forty (40) feet from any side or rear property line; a barn, stable or other building or structure used to shelter livestock shall be set back not less than one-hundred (100) feet from the front property line or any street line, and may not be less than fifty (50) feet from any side or rear property line; a fenced pasture, paddock or other enclosed livestock area may not be located nearer than ten (10) feet to any property line.

2. *Detached Structures, Detached Garages, Storage Sheds, and Cabanas.* If utilizing the reduced five (5) foot side and rear property line setback, the structure must meet the following requirements in consideration of impact to neighboring properties:

(a) If the eave overhang is greater than six (6) inches in depth, the five (5) foot setback is measured from the exterior face of the eave, not the exterior wall.

(b) If the eave overhang is six (6) inches or less in depth, the five (5) foot setback may be measured from the exterior wall.

3. *Portable Storage Sheds.* Portable storage sheds are exempt from structure setback requirements when placed in the rear yard area. The required minimum set back from the front and/or secondary front property lines must be maintained as defined for each District. Sheds, overhangs and sheltered areas shall not be created by utilizing a property line fence and such structures do not qualify as portable storage sheds.

4. *Decks.*

(a) Ground-level decks and platforms shall maintain five (5) foot side and rear yard setbacks.

(b) Elevated decks and platforms shall maintain the setback requirements of the applicable zoning district for the primary structure.

5. *Attached Arbors and Patio Shade Structure.*

(a) Arbors and patio shade structures that are attached to or abut the primary residence (within two (2) feet), are open on at least three (3) sides, and are constructed without a solid roofing material, shall maintain a minimum ten (10) foot side and rear yard setback, or the structure setback of the primary home, whichever is less.

(b) Arbors and patio shade structures that are attached to or abut the primary residence (within two (2) feet), have a solid roof material or are not open on at least three (3) sides shall meet the minimum required structure setbacks of the primary structure.

(c) Arbors and patio shade structures that are not attached to or abut the primary residence (within two (2) feet) shall maintain a minimum six (6) foot separation from the primary residence. Such structures shall comply with the setback and height requirements for accessory structures.

6. *Private antennas.* Private antennas shall be required to maintain the same minimum setback requirements as the primary structure on the lot.

7. *Windmills.* Windmills shall comply with accessory structure setback requirements but shall maintain a minimum ten (10) foot side and rear yard setback.

8. *Flag poles.* Flag poles shall maintain a minimum ten (10) foot front, side, and rear yard setback.

9. Batting cages shall not be allowed in the primary front yard or secondary front yard setback, and shall maintain a minimum ten (10) foot side and rear yard setback.

10. Basketball standards shall maintain a minimum ten (10) foot primary front, secondary front, side, and rear yard setback. Permanently affixed basketball standards are not allowed in the public right-of-way. Movable basketball standards are allowed in the public-right-of way only when being used for play, and when placed in a location that does not interfere with normal vehicular or pedestrian circulation or otherwise create a nuisance in the neighborhood.

11. *Other Accessory Structures Less than Six (6) Feet in Height.* Other accessory structures including pools, spas, and mechanical equipment which are less than six (6) feet in height shall maintain a minimum five (5) foot setback from the side and rear property lines. Examples of mechanical equipment include HVAC units, swimming pool pumps and filters, ventilation, cable television distribution boxes, transformers, and other utility equipment. This setback requirement does not apply to utilities installed underground within the public right-of-way, as may be approved by the Town.

(Ord. #2014-03, § 2)

32-22.10 Maximum Height for Accessory Structures.

Except as specified in this section, accessory structures shall have a maximum height of fifteen (15) feet. Additionally, no part of any accessory structure shall be greater than twelve (12) feet in height within ten (10) feet of a side or rear property line.

a. Maximum height standards for specific types of accessory structures.

1. *Play structures.* The maximum height of a play structure is limited to ten (10) feet, and no part of a play structure shall be greater than eight (8) feet in height within ten (10) feet of a side or rear property line.

2. *Private antennas, ground mounted.* The maximum height of a ground mounted private antenna shall be thirty-five (35) feet. Private antennas shall have a non-shiny finish.

3. *Flag poles.* Flag poles shall not exceed twenty-five (25) feet in height.

4. *Elevated deck or platform.* The horizontal plain of a deck or platform shall not exceed ten (10) feet in height, or exceed four (4)

feet in height within ten (10) feet of a side or rear property line.

5. *Hot tub, spa.* The highest point of a hot tub or spa shall not exceed six (6) feet, or four (4) feet in height if within ten (10) feet of a side or rear property line.

6. *Portable storage shed.* The highest point of a portable storage shed shall have a building height no greater than eight (8) feet as measured at the highest pitch of the roof.

7. *Solar, ground mounted.* A ground mounted structure designed to hold solar panels shall not exceed eight (8) feet in height, or four (4) feet in height within ten (10) feet of a side or rear property line.

(Ord. #2014-03, § 2)

32-22.11 Fencing and Retaining Walls.

Fences and retaining walls do not qualify as accessory structures and are subject to their own setback and design criteria as follows:

a. *Front Yard Fences.* The height limit for fences or hedges located within the primary front yard setback area is three and one-half (3-1/2) feet, as measured at the existing grade of the location of fence placement. For corner lots, the height limit for fences within the site distance triangle shall be further limited as specified under Section 32-22.12.a. of this chapter.

b. *Secondary Front Yard Fence.* The height limit for secondary front yard fences is six (6) feet. Additionally, secondary front yard fences shall maintain a minimum setback of five (5) feet from the adjacent right-of-way or vehicular access easement, and landscaping shall be installed and maintained along the exterior face of the fence. The maximum height of a fence within five (5) feet of the edge of an adjacent right-of-way or vehicular access is three and one-half (3-1/2) feet. All fences must comply with the Visibility at Intersections for Corner Lots - site distance triangle requirements as defined in Section 32-22.12.a. of this chapter.

c. *Interior Side and Rear Yard Fence.* The height limit for side and rear yard shared property line fences which do not abut a public right-of-way or vehicular access easement is six (6) feet, but may be increased to seven (7) feet if the top one (1) foot is constructed with an open lattice. For shared property line fences which are placed on top, or within two (2) feet of the top of, a retaining wall, the height of the fence shall be determined by averaging the height of the two (2) sides of the fence, inclusive of the retaining wall. On the side in which the retaining wall is visible, the retaining wall shall not exceed three (3) feet and the fence shall not exceed four feet six inches (4'6"), for a total combined fence and retaining wall height that shall not exceed seven feet six inches (7'6").

d. *Fence and Retaining Walls Separations.*

1. The height limit for retaining walls is six (6) feet. The height of retaining walls within the front yard or secondary front yard setback area is restricted to three and one-half (3-1/2) feet. Retaining walls within primary or secondary front yard areas shall meet the standards for visibility at intersections for corner lots as defined in Section 32-22.12.a. of this chapter.

2. Retaining walls that are greater than three (3) feet in height shall maintain a minimum three (3) foot setback from side or rear property lines. For sloped areas where multiple retaining walls are proposed, the retaining walls shall maintain a minimum separation width equal to the height of tallest adjacent retaining wall. The ground area between the retaining walls may have a maximum slope of 3:1. Installation and maintenance of landscaping in the ground area between retaining walls is required for retaining walls of any height in which building permits are required.

3. Retaining walls required for structural or geotechnical reasons, or for public capital improvements, are exempt from the six (6) foot height restriction, subject to determination by the Town.

e. *Prohibited Fences.* Installation of the following types of fences and use of fences constructed with the following fencing material is prohibited unless specifically approved by the Planning Division for animal control, special security needs, or as required by city, state, or federal law or regulation.

1. Barbed wire, razor, or concertina wire;

2. Electrified fence;

3. Chain link fencing when visible from public areas and/or public rights-of-way; or

4. Temporary fencing such as plastic or wire mesh fencing, barricades, and/or panel-system fences, except to control access to construction sites, for use associated with Town-sponsored events, and/or in conjunction with operation of temporary Town-approved uses.

(Ord. #2014-03, § 2)

32-22.12 Additional Development Standards.

a. *P-l Districts.* Setbacks established for properties zoned P-l; Planned Unit Development District prior to the Town's incorporation in 1982 are not changed by approval of this chapter. Where the Town has established specific setback or height limitations through a P-l; Planned Unit Development District, subdivision map, final development plan or other entitlement, setback restrictions established through such entitlement process shall apply to continuing or future development within the approved project. At the discretion of the Chief of Planning, proposals for exterior architectural modification or additions to any residential structure for which architecture was initially approved through public hearing may be subject to approval of a Development Plan application and, at the discretion of the Chief of Planning, may be referred to the Design Review Board and/or Planning Commission for review.

b. *Visibility at Intersections for Corner Lots.*

1. The maximum height of fences and vegetation shall be two and one-half (2-1/2) feet above the curb grade, or three (3) feet above the pavement surface at the outside edge of pavement adjoining the premises, within the sight distance triangle of corner lots.

2. An exception for vegetation in the site distance triangle is allowed for trees with limbs and canopies which maintain a seven (7) foot vertical clearance from the sidewalk or roadway.

c. *Creek Structure Setbacks.*

1. Major creek channels are defined as San Ramon Creek, Sycamore Creek, Green Valley Creek, East Branch of Alamo Creek, and the West Branch of Alamo Creek. For properties that abut major channels, all additions and/or new structures shall meet the creek current structure setback requirements as defined by Contra Costa County Flood Control and Water Conservation District or as determined by the City Engineer.

2. For properties that abut non-major channels, all additions and/or new structures shall meet the structure setback requirements as defined in Danville Municipal Code Chapter 31-29, as determined by the City Engineer.

3. All structures shall observe the minimum creek setback or the property line setback otherwise established under the applicable zoning district, whichever is greater.

d. *Breezeways.* For purposes of determining the maximum allowable height and minimum yard setbacks, a structure shall not be considered connected to, and part of, the primary residence by utilizing a breezeway unless: the breezeway is structurally integrated into the construction of both the primary residence and the second structure; the distance of the wall-to-wall separation between the two (2) structures connected by the breezeway does not exceed twelve (12) feet, and; the depth of the breezeway roof structure including eaves (front to back) is at least twelve (12) feet. A structure shall be restricted to the maximum height requirement applicable to an accessory structure if the breezeway does not meet all of the above requirements. However, a structure attached to the primary residence in any manner shall comply with the setback standards applicable to the primary residence.

e. *Garage conversions.* The conversion of either the entire garage or any portion of the garage to living space or other residential use is allowed if:

1. The property meets the minimum on-site parking requirement as specified under Section 32-22.13.a. of this chapter;

2. The existing garage door is removed, and replaced with walls, windows, doors and other suitable materials;

3. The exterior of converted space uses the same exterior colors, materials and style of the existing structure; and

4. The curb is replaced, the driveway is removed and landscaping is installed so that the converted space no longer resembles a garage.

(Ord. #2014-03, § 2)

32-22.13 Off-Street Parking.

a. *Minimum Off-Street/On-Site Parking Requirement.* Each single family lot shall have a minimum of two (2) off-street parking spaces. The spaces shall be provided in an enclosed garage structure that meets the setback requirements of each district. The garage dimensions as measured from the face of the interior walls shall be at least twenty (20) feet wide and twenty-two (22) feet deep.

b. *Side-loaded garages.* Driveways serving side-loaded garages shall have a minimum width of twenty-four (24) feet and be served by a minimum five (5) foot depth back-out area located beyond the interior side wall of the garage to facilitate vehicle back-out maneuvers.

(Ord. #2014-03, § 2)

32-22.14 Granting of Land Use or Variance Permits.

Land Use Permits for the Conditional Uses listed in subsection 32-22.4 and Variance permits to modify the provisions in subsections 32-22.6 through 32-22.13, may be granted in accordance with Section 32-3 of the Danville Municipal Code.

(Ord. #2014-03, § 2)

32-23 D-1 TWO FAMILY DISTRICT.

32-23.1 Definitions.

Words and phrases as used in this section shall be as defined under Section 32-22.2.

(Ord. #2014-04, § 2)

32-23.2 Allowed Uses.

The following uses are allowed within the D-l Two Family District:

a. All the uses designated for the R-6 district in Section 32-22.3;

b. A detached two (2) family dwelling (duplex) on each lot and uses normally auxiliary thereto.

(Ord. #2014-04, § 2)

32-23.3 Conditional Uses; Uses Requiring a Land Use Permit and/or Development Plan.

The following uses are allowed within the D-l Two Family District upon the issuance of a land use permit and/or development plan permit:

a. All the uses designated for the R-6 district in Section 32-22.4.

(Ord. #2014-04, § 2)

32-23.3.5 Prohibited Uses. The following uses are prohibited:

a. Short term rentals.

(Ord. #2016-02, § 4)

32-23.4 Minimum Lot Area, Width and Depth.

a. *Area of Lot.* No two (2) family dwelling of other structure permitted in the D-l district shall be erected or placed on a lot smaller than eight thousand (8,000) square feet in area.

b. *Width of Lot.* Lot width provisions for the D-l district shall be the same as those for the R-10 district (Section 32-22.6.b).

c. *Depth of Lot.* Lot depth provisions for the D-l district shall be the same as those for the R-6 district (Section 32-22.6.c).

(Ord. #2014-04, § 2)

32-23.5 Minimum Setback Requirements for a Primary Structure.

a. *Side Yard.* Side yard provisions for the D-l district shall be the same as those for the R-10 district (Section 32-22.7).

b. *Front Yard Setback.* Setback (front yard) provisions for the D-l district shall be the same as those for the R-6 district (Section 32-22.7).

c. *Rear Yard.* Rear yard provisions for the D-l district shall be the same as those for the R-6 district (Section 32-22.7).

(Ord. #2014-04, § 2)

32-23.6 Maximum Building Height for a Primary Structure.

Building height provisions for a primary structure within the D-l district shall be the same as those for the R-6 district (Section 32-22.8.).

(Ord. #2014-04, § 2)

32-23.7 Minimum Setbacks for Accessory Structures.

Minimum setbacks for an accessory within the D-l district shall be the same as those for the R-6 district (Section 32-22.9).

(Ord. #2014-04, § 2)

32-23.8 Maximum Height for Accessory Structures.

Maximum height for an accessory structure in the D-l district shall be the same as those for the R-6 district (Section 32-22.10).

(Ord. #2014-04, § 2)

32-23.9 Fencing and Retaining Walls.

Design and setback criteria for fencing and retaining walls shall be as specified under Section 32-22.11.

(Ord. #2014-04, § 2)

32-23.10 Additional Development Standards.

Additional Development Standards shall be as specified under Section 32.22.12.

(Ord. #2014-04, § 2)

32-23.11 Off-Street Parking.

a. *Minimum On-Site Parking Requirement.* Each lot shall have a minimum of two (2) off-street parking spaces. The spaces shall be provided in an enclosed garage structure that meets the setback requirements of each district. The garage dimensions as measured from the face of the interior walls shall be at least twenty (20) feet wide and twenty-two (22) feet deep.

b. *Side-loaded garages.* Driveways serving side-loaded garages shall have a minimum width of twenty-four (24) feet and be served by a minimum five (5) foot depth back-out area located beyond the interior side wall of the garage to facilitate vehicle back-out maneuvers.

(Ord. #2014-04, § 2)

32-23.12 Granting of Land Use or Variance Permits.

Land Use Permits for the conditional uses listed in subsection 32-23.3 and Variance permits to modify the provisions in subsections 32-23.4 through 32-23.11, may be granted in accordance with Section 32-3 of the Danville Municipal Code.

(Ord. #2014-04, § 2)

32-24 M-30 MULTIFAMILY RESIDENTIAL DISTRICT.

32-24.1 Purpose.

The purpose of the M-30 Multifamily Residential District is to:

a. Create development standards appropriate for compact, high density, multifamily residential development including apartments, townhouses, or condominium living.

b. Assure that future development compliments Danville's existing small town character and established quality of life.

c. Integrate new development in a manner that is visually and functionally compatible with the physical character of the surrounding community.

d. Minimize the impacts of uses, protect residents from the harmful effects of excessive noise, overcrowding, excessive traffic, insufficient parking and other adverse environmental effects.

e. Ensure adequate provisions for sites, with reasonable access to public services, for appropriate public and semipublic land uses, including care facilities, needed to complement residential development or that require a residential environment. At the same time, protect the relatively quiet, primarily noncommercial, family atmosphere of neighborhoods.

f. Be consistent with the Danville General Plan Multifamily High Density (twenty-five through thirty (25-30) dwelling units per acre) land use designation and to replace the previous M-29; Multifamily Residential District.

(Ord. #2014-05, § 2)

32-24.2 Definitions.

Words and phrases as used in this section shall be as defined under Section 32-22.2.

(Ord. #2014-05, § 2)

32-24.3 Allowed Uses.

Uses permitted in the M-30 District shall be as follows:

a. Multifamily buildings, but not including motels or hotels;

b. Horticulture and viticulture;

c. Raising or keeping of domestic animals, with a limit of three (3) dogs and/or three (3) cats over the age of four (4) months;

d. Publicly owned or privately owned parks and playgrounds;

e. A small family day care home, located in detached single family dwellings only, where the small family day care home operates in addition to the residential use of the property, not including the licensee or members of the licensee's family or persons employed as facility staff;

f. Group Homes including Community Care Facilities and Residential Care Facilities where six (6) or fewer persons reside or receive care, consistent with state law;

g. Intermediate Care Facilities where six (6) or less persons reside or receive care, consistent with state law;

h. Health Facilities where six (6) or fewer persons reside or receive care, consistent with state law;

i. Transitional housing where no more than six (6) persons reside, consistent with state law;

j. Supportive housing where no more than six (6) persons reside, consistent with state law;

k. A cottage food operation, complying with Section 32-22.5.a;

l. Home occupations, complying with Section 32-22.5.b;

m. Personal property sales, complying with Section 32-22.5.c;

n. Accessory dwelling units that have one thousand (1,000) square feet or less of conditioned living space and comply with Section 32-76 (Accessory Dwelling Unit Ordinance);

o. Residential greenhouses, under three hundred (300) square feet.

(Ord. #2014-05, § 2)

32-24.4 Conditional Uses; Uses Requiring a Land Use Permit and/or Development Plan Permit.

The following uses are permitted upon the issuance of a land use permit and/or development plan permit:

a, Churches, religious institutions, and parochial and private schools, including nursery schools;

b. Community buildings, clubs and activities of a quasi-public, social, fraternal, or recreational character, such as golf, tennis, and

swimming clubs; veterans and fraternal organizations not organized for monetary profit;

c. Child care centers;

d. Large family day care home where the large family day care home operates in addition to the residential use of the property;

e. Bed and Breakfast;

f. Group Homes including Community Care Facilities and Residential Care Facilities where seven (7) or more persons reside or receive care, consistent with state law;

g. Intermediate Care Facilities where seven (7) or more persons reside or receive care, consistent with state law";

h. Health Facilities where seven (7) or more persons reside or receive care, consistent with state law;

i. Transitional Housing where seven (7) or more persons reside, consistent with state law;

j. Supportive Housing where seven (7) or more persons reside, consistent with state law;

k. An accessory dwelling unit within the range of one thousand and one (1,001) to two thousand (2,000) square feet of conditioned living space on parcels that are one (1) acre or larger in size. Additional design criteria are established under Section 32-76 of this chapter (Accessory Dwelling Unit Ordinance);

l. Greenhouses (over three hundred (300) square feet) and nurseries for the propagation of plants only and not including any retail sales of nursery products;

m. Publicly owned buildings and structures, (except that accessory structures forming a part of public utilities, publicly owned utilities and pipelines are not regulated by this chapter, except for setback regulations (see Section 32-22.9);

n. Private antennas, complying with Section 32-24.8.d.2;

o. Wind mills erected for the production of electricity, complying with this Section 32-24.8.b.6;

p. Wireless communications facilities, complying with Section 32-70;

q. The modification or expansion of a non-conforming use or structure;

r. Uses which the Planning Commission has found, after notice and hearing, to be comparable to the above uses.

(Ord. #2014-05, § 2)

32-24.4.5 Prohibited Uses. The following uses are prohibited:

a. Short term rentals.

(Ord. #2016-02, § 5)

32-24.5 Development Density.

a. *Maximum Unit Density.* The maximum residential density allowed in this district is thirty (30) dwelling units per acre.

b. *Minimum Unit Density.* The minimum residential density allowed in this district is twenty-five (25) dwelling units per acre.

(Ord. #2014-05, § 2)

32-24.6 Minimum Lot Area, Width and Depth.

a. *Area.* No building or other structure permitted in the M-30 district shall be erected or placed on a lot containing less than ten thousand (10,000) square feet of land in area.

b. *Width.* No lot width is required.

c. *Depth.* No lot depth is required.

(Ord. #2014-05, § 2)

32-24.7 Minimum Setback, and Maximum Height, Floor Area Ratio (FAR) Requirements for a Multifamily Building.

a. *Front yard.* The minimum front yard setback shall be twenty-five (25) feet.

b. *Side yard.* The minimum side yard setback shall be twenty (20) feet.

c. *Rear yard.* The minimum rear yard setback shall be twenty (20) feet.

d. *Floor Area Ratio.* The maximum Floor Area Ratio (FAR) shall be eighty percent (80%).

e. *Building Height.* The maximum building height for any multifamily structure is thirty-seven (37) feet.

(Ord. #2014-05, § 2)

32-24.8 Accessory Structures

a. *Setbacks.* Accessory structures shall maintain the same setbacks as the primary residence, except that garages or any other accessory building or structure may have a minimum setback of three (3) feet when located at least fifty (50) feet back from the front property line.

b. *Setback Standards for specific types of accessory structures.*

1. *Detached Structures, Detached Garages, Storage Sheds, and Cabanas.* If utilizing the reduced three (3) foot side and rear property line setback, the structure must meet the following requirements in consideration of impact to neighboring properties:

(a) If the eave overhang is greater than six (6) inches in depth, the five (5) foot setback is measured from the exterior face of the eave, not the exterior wall.

(b) If the eave overhang is six (6) inches or less in depth, the five (5) foot setback may be measured from the exterior wall.

2. *Portable Storage Sheds.* Portable storage sheds are exempt from structure setback requirements when placed in the rear yard area. The required minimum set back from the front and/or secondary front property lines must be maintained as defined for each District. Sheds, overhangs and sheltered areas shall not be created by utilizing a property line fence and such structures do not qualify as portable storage sheds.

3. *Decks.*

(a) Ground-level decks and platforms shall maintain three (3) foot side and rear yard setbacks.

(b) Elevated decks and platforms shall maintain the setback requirements of the applicable zoning district for the primary structure.

4. *Attached Arbors and Patio Shade Structure.*

(a) Arbors and patio shade structures that are attached to or abut the primary structure (within two (2) feet), are open on at least three (3) sides, and are constructed without a solid roofing material, shall maintain a minimum five (5) foot side and rear yard setback, or the structure setback of the primary structure, whichever is less.

(b) Arbors and patio shade structures that are attached to or abut the primary structure (within two (2) feet), have a solid roof material or are not open on at least three (3) sides shall meet the minimum required structure setbacks of the primary structure.

(c) Arbors and patio shade structures that are not attached to or abut the primary residence (within two (2) feet) shall maintain a minimum six (6) foot separation from the primary structure. Such structures shall comply with the setback and height requirements for accessory structures.

5. *Private antennas.* Private antennas shall be required to maintain the same minimum setback requirements as the primary structure on the lot.

6. *Windmills.* Windmills shall comply with accessory structure setback requirements but shall maintain a minimum ten (10) foot side and rear yard setback.

7. *Flag poles.* Flag poles shall maintain a minimum 10 foot front, side, and rear yard setback.

8. *Basketball Standards.* Basketball standards shall maintain a minimum ten (10) foot primary front, secondary front, side, and rear yard setback. Permanently affixed basketball standards are not allowed in the public right-of-way. Movable basketball standards are allowed in the public-right-of way only when being used for play, and when places in a location that does not interfere with normal vehicular or pedestrian circulation or otherwise create a nuisance in the neighborhood.

c. *Height.* Except as specified in this section, accessory structures shall have a maximum height of fifteen (15) feet. Additionally, no part of any accessory structure shall be greater than twelve (12) feet in height within ten (10) feet of a side or rear property line.

d. Maximum height standards for specific types of accessory structures.

1. *Play structures.* The maximum height of a play structure is limited to ten (10) feet, and no part of a play structure shall be greater than eight (8) feet in height within ten (10) feet of a side or rear property line.

2. *Private antennas, ground mounted.* The maximum height of a ground mounted private antenna shall be thirty-five (35) feet. Private antennas shall have a non-shiny finish.

3. *Flag poles.* Flag poles shall not exceed twenty-five (25) feet in height.

4. *Elevated deck or platform.* The horizontal plain of a deck or platform shall not exceed ten (10) feet in height, or exceed four (4) feet in height within ten (10) feet of a side or rear property line.

5. *Hot tub, spa.* The highest point of a hot tub or spa shall not exceed six (6) feet, or four (4) feet in height if within ten (10) feet of a side or rear property line.

6. *Portable storage shed.* The highest point of a portable storage shed shall have a building height no greater than eight (8) feet as measured at the highest pitch of the roof.

7. *Solar, ground mounted.* A ground mounted structure designed to hold solar panels shall not exceed eight (8) feet in height, or four (4) feet in height within ten (10) feet of a side or rear property line.

(Ord. #2014-05, § 2)

32-24.9 Off-Street Parking.

a. Every multifamily dwelling unit shall have, on the same lot or parcel, off-street automobile storage space as follows:

1. Studio dwelling unit, one (1) space; one bedroom dwelling unit, one and one-half (11/2) spaces; two (2) or more bedroom units, two (2) spaces; plus

2. One-quarter (1/4) space per each dwelling unit for guest parking, which may include available curb parking along the subject property's street frontage, and fractional amounts of which shall be rounded out to the next higher whole number of spaces.

3. Each space shall have minimum dimensions of nine feet clear by nineteen (9' x 19') feet surfaced area, and shall not be located within the side yard or setback areas of the principal structure. One-half (½) of the required spaces shall be covered.

(Ord. #2014-05, § 2)

32-24.10 Open Area.

Twenty-five percent (25%) of the area described by the development plan submitted pursuant to subsection 32-24.12 shall not be occupied by buildings, structures, or pavement. Seventy-five percent (75%) of the twenty-five percent (25%) open area shall be planted and maintained with landscaping.

(Ord. #2014-05, § 2)

32-24.11 Building Relationship.

Each building or structure shall be located at least twenty (20) feet from each other building or structure, except that garages and covered walkways between buildings or structures may be permitted within this twenty (20) foot distance. A covered walkway shall not exceed ten (10) feet in height, no more than fifty percent (50%) of the sides of the structures shall be enclosed with any material other than that necessary for roof supports, and the walkway shall not be more than ten (10) feet wide. (Ord. #2014-05, § 2)

32-24.12 Development Plans.

a. No development is lawful in an M-30 district until a Development Plan application has been submitted to and approved by the Town.

b. All applications for development plan approval shall include drawings drawn to scale indicating the following:

1. Topography;

2. A boundary survey of the site;

3. All existing and proposed structures, the height of each structure, and the number of dwelling units in each structure;

4. Planting and landscape area;

5. Automobile parking areas;

6. Vehicular and pedestrian ways with grades, widths, and type of proposed improvements;

7. Access points providing ingress to and egress from the side;

8. Existing and proposed utilities;

9. Recreation facilities if any;

10. Surface drainage conditions and outlets;

11. Building elevations including architectural type, including all drawing and details listed within the Town's Design Review Board Submittal Requirement Checklist;

12. Amount of studio, one (1) bedroom, two (2) bedroom, or other size apartment units;

13. Additional information as may be required by the Planning Division.

c. *Review.* Development Plan applications proposing new multifamily dwelling units shall be subject to review by the Danville Planning Commission during a noticed public hearing. The approval of Development Plan applications involving accessory structures which are consistent with all development standards may be approved administratively by the Planning Division, but may be referred to the Planning Commission at the discretion of the Chief of Planning.

d. *Rezoning to M-30 District.* An applicant for rezoning to an M-30 district may submit simultaneously and in combination with an application for approval of a Development Plan for a property.

(Ord. #2014-05, § 2)

32-24.13 Land Use and Variance Permits.

Land Use Permits for the conditional land uses listed in Section 32-24-4 and Variance permits to modify the provisions contained in subsections 32-24.6 through 32-24.11 may be granted in accordance with Sections 2-7 and 32-3.

(Ord. #2014-05, § 2)

32-25 M-25 MULTIFAMILY RESIDENTIAL DISTRICT.

32-25.1 Purpose.

The purpose of the M-25 Multifamily Residential District is to:

a. Create development standards appropriate for compact, high density and high/medium density, multifamily residential development including apartments, townhouses, or condominiums living.

b. Assure that future development compliments Danville's existing small town character and established quality of life.

c. Integrate new development in a manner that is visually and functionally compatible with the physical character of the surrounding community.

d. Minimize the impacts of uses, protect residents from the harmful effects of excessive noise, overcrowding, excessive traffic, insufficient parking and other adverse environmental effects.

e. Ensure adequate provisions for sites, with reasonable access to public services, for appropriate public and semipublic land uses, including care facilities, needed to complement residential development or that require a residential environment. At the same time, protect the relatively quiet, primarily noncommercial, family atmosphere of neighborhoods,

f. Be consistent with the Danville General Plan Multifamily High Density (twenty-five through thirty (25-30) units per acre) and the Multifamily High/Medium Density (twenty through twenty-five (20-25) dwelling units per acre) land use designations.

(Ord. #2014-05, § 2)

32-25.2 Development Standards.

a. *Conform to M-30 District.* Except as specified, the M-25 District shall comply with all of the provisions established under the M-30 Multifamily District.

b. *Differences from the M-30 District.* The following items for M-25 district are different from those for M-30 district:

1. *Maximum Unit Density.* The maximum residential density allowed in this district is twenty-five (25) dwelling units per acre.

2. *Minimum Unit Density.* The minimum residential density allowed in this district is twenty (20) dwelling units per acre.

3. *Maximum Height.* The maximum building height for any multifamily structure is thirty-five (35) feet.

(Ord. #2014-05, § 2)

32-26 M-20 MULTIFAMILY RESIDENTIAL DISTRICT.

32-26.1 Purpose.

a. Create development standards appropriate for compact, high/medium density and low/medium density multifamily and single family residential development including apartments, townhouses, condominiums, and single family living.

b. Assure that future development compliments Danville's existing small town character and established quality of life.

c. Integrate new development in a manner that is visually and functionally compatible with the physical character of the surrounding community.

d. Minimize the impacts of uses, protect residents from the harmful effects of excessive noise, overcrowding, excessive traffic, insufficient parking and other adverse environmental effects.

e. Ensure adequate provisions for sites, with reasonable access to public services, for appropriate public and semipublic land uses, including care facilities, needed to complement residential development or that require a residential environment. At the same time, protect the relatively quiet, primarily noncommercial, family atmosphere of neighborhoods.

f. Be consistent with the Danville General Plan Multifamily High/Medium Density (twenty through twenty-five (20-25) units per acre) and the Multifamily Low/Medium Density (thirteen through twenty (13-20) dwelling units per acre) land use designation and to replace the previous M-17; Multifamily Residential District.

(Ord. #2014-05, § 2)

32-26.2 Development Standards.

a. *Conform to M-30 District.* Except as specified, the M-20 District shall comply with all of the provisions established under the M-30 Multifamily District.

b. *Differences From M-30 District.* The following items for the M-20 district are different from those for M-30 districts:

1. *Maximum Unit Density.* The maximum residential density allowed in this district is twenty (20) dwelling units per acre.

2. *Minimum Unit Density.* The minimum residential density allowed in this district is thirteen (13) dwelling units per acre.

3. *Maximum Height.* The maximum height of any multifamily structure is two and one-half (2-1/2) stories or thirty-five (35) feet, whichever is less.

(Ord. #2014-05, § 2)

32-27 M-13 MULTIFAMILY RESIDENTIAL DISTRICT.

32-27.1 Purpose.

a. Create development standards appropriate for compact, low/medium density and low density multifamily or single family residential development including apartments, townhouses, condominiums, and single family living.

b. Assure that future development compliments Danville's existing small town character and established quality of life.

c. Integrate new development in a manner that is visually and functionally compatible with the physical character of the surrounding community.

d. Minimize the impacts of uses, protect residents from the harmful effects of excessive noise, overcrowding, excessive traffic, insufficient parking and other adverse environmental effects.

e. Ensure adequate provisions for sites, with reasonable access to public services, for appropriate public and semipublic land uses, including care facilities, needed to complement residential development or that require a residential environment. At the same time, protect the relatively quiet, primarily noncommercial, family atmosphere of neighborhoods.

f. Be consistent with the Danville General Plan Multifamily Low/Medium Density (thirteen through twenty (13-20) dwelling units per acre) and the Multifamily Low Density (eight through thirteen (8-13) dwelling units per acre) land use designations and to replace the previous M-12; Multifamily Residential District.

(Ord. #2014-05, § 2)

32-27.2 Development Standards.

a. *Conform to M-30 District.* Except as specified, the M-13 District shall comply with all of the provisions established under the M-30 Multifamily District.

b. *Differences From M-30 District.* The following items for the M-13 district are different from those for M-30 district:

1. *Maximum Unit Density.* The maximum residential density allowed in this district is thirteen (13) dwelling units per acre.

2. *Minimum Unit Density.* The minimum residential density allowed in this district is eight (8) dwelling units per acre.

3. *Floor Area Ratio (FAR).* The Maximum FAR for development within the M-13 District shall be sixty-five percent (65%).

4. *Area.* No building or other structure permitted in the M-13 district shall be erected or placed on a lot containing less than eight thousand (8,000) square feet of land in area.

5. *Maximum Height.* The maximum height of any multifamily structure is two and one-half (2-1/2) stories or thirty-five (35) feet, whichever is less.

(Ord. #2014-05, § 2)

32-28 M-8 MULTIFAMILY RESIDENTIAL DISTRICT.

32-28.1 Purpose.

a. Create development standards appropriate for compact, low/medium density and low density multifamily or single family residential development including apartments, townhouses, condominiums, and single family living.

b. Assure that future development compliments Danville's existing small town character and established quality of life.

c. Integrate new development in a manner that is visually and functionally compatible with the physical character of the surrounding community.

d. Minimize the impacts of uses, protect residents from the harmful effects of excessive noise, overcrowding, excessive traffic, insufficient parking and other adverse environmental effects.

e. Ensure adequate provisions for sites, with reasonable access to public services, for appropriate public and semipublic land uses, including care facilities, needed to complement residential development or that require a residential environment. At the same time, protect the relatively quiet, primarily noncommercial, family atmosphere of neighborhoods.

f. Be consistent with the Danville General Plan Multifamily Low Density (eight through thirteen (8-13) dwelling units per acre) land use designation and to replace the previous M-6; Multifamily Residential District.

(Ord. #2014-05, § 2)

32-28.2 Development Standards.

a. *Conform to M-30 District.* Except as specified, the M-8 District shall comply with all of the provisions established under the M-30 Multifamily District.

b. *Differences From M-30 District.* The following items for the M-8 district are different from those for M-30 district:

1. *Maximum Unit Density.* The maximum residential density allowed in this district is eight (8) dwelling units per acre.

2. *Minimum Unit Density.* The minimum residential density allowed in this district is four (4) dwelling units per acre.

3. *Floor Area Ratio (FAR).* The Maximum FAR for development within the M-8 District shall be fifty percent (50%).

4. *Area.* No building or other structure permitted in the M-8 District shall be erected or placed on a lot containing less than six thousand (6,000) square feet of land in area.

5. *Maximum Height.* The maximum height of any multifamily structure is two and one-half (2-1/2) stories or thirty-five (35) feet, whichever is less.

(Ord. #2014-05, § 2)

32-29—32-35 RESERVED.

32-36 A-1 LIGHT AGRICULTURAL DISTRICT.

32-36.1 General.

a. *General Provisions.* All of the land lying within an A-1 light agricultural district may be used for any of the following uses, under the following regulations set forth in this section.

32-36.2 Uses.

a. *Uses Permitted*. Uses permitted in the A-1 district shall be as follows:

1. Small farming, including horticulture, floriculture, nurseries and greenhouses, mushroom rooms, fur farms, poultry raising, animal breeding, raising of grainfed rodents, aviaries, apiaries, and similar agricultural uses;

2. A stand not exceeding two hundred (200) square feet for sale of agricultural products grown on the premises. The stand shall be set back at least twenty-five (25') feet from the front property line;

3. A detached single family dwelling on each lot and the accessory structures and uses normally auxiliary to it;

4. Publicly owned parks and playgrounds;

5. The keeping of livestock. No livestock shall be kept on any taxable unit of land less than one (1) acre, and no more than two (2) head of livestock may be maintained per acre on any taxable unit of land in the A-1 district. Barns, stables, and other buildings or structures used to house livestock shall not be located or maintained in the A-1 district nearer than one hundred (100) feet to the boundary line of any street or public road, nor nearer than fifty (50') feet to any side, front, or rear property line of the lot or parcel of land. Fenced pasture, paddocks, or other enclosed livestock areas shall not be located nearer than ten (10) feet to any front, side, or rear property line of the lot or parcel of land;

6. Foster home or family care home operated by a public agency, or by a private agency which has obtained State or local approval (license) for the proposed operation, where not more than six (6) minors reside on the premises with not more than two (2) supervisory persons.

b. *Uses With Land Use Permit*.

1. In an A-1 district, a land use permit may allow the following uses.

2. Allowable uses are:

(a) Home occupations;

(b) Publicly owned parks and playgrounds;

(c) Dude ranches, riding academies and stables, and dog kennels;

(d) Publicly owned buildings and structures, except as provided in Articles I-III;

(e) Commercial radio and television receiving and transmitting facilities but not including broadcasting studios or business offices.

3. Other allowable uses are:

(a) Hospitals, animal hospitals, eleemosynary and philanthropic institutions, and convalescent homes;

(b) Churches, religious institutions, and parochial and private schools, including nursery schools;

(c) Community buildings, clubs, and activities of a quasi-public, social, fraternal, or recreational character, such as: golf, tennis, and swimming clubs, and veterans and fraternal organizations not organized for monetary profit; these uses are allowed only where not organized for monetary profit;

(d) More than one (1) detached dwelling unit on a lot or parcel of land;

(e) Medical and dental offices and medical clinics.

32-36.3 Lots.

a. *Lot Area.* No agricultural pursuit shall be permitted nor shall any structure or use herein permitted be erected, placed, or established on a lot smaller than twenty thousand (20,000) square feet in area.

b. *Lot Width.* No agricultural pursuit shall be permitted nor shall any structure or use herein permitted be erected, placed, or established on a lot less than one hundred twenty (120') feet in average width.

c. *Lot Depth.* No agricultural pursuit shall be permitted nor shall any structure or use herein permitted be erected, placed, or established on a lot less than one hundred twenty (120') feet deep.

32-36.4 Building Height.

a. *Building Height; Maximum*. No structure or building herein permitted shall exceed two and one-half (2 1/2) stories or thirty-five (35') feet in height, whichever is greater.

32-36.5 Yards.

a. *Yard; Side*. There shall be an aggregate side yard width of at least thirty-five (35') feet. No side yards shall be less than fifteen (15') feet wide. These minima may be reduced to three (3') feet for an accessory building or structure if it is set back at least sixty-five (65') feet from the front property line. No barns, stables, apiaries, aviaries, or other buildings or structures used to house livestock, grainfed rodents, bees, birds, or poultry shall be located in this district nearer than fifty (50') feet to the boundary line of any residential land use district.

b. *Yard; Setback*. There shall be a setback (front yard) of at least twenty-five (25') feet for any structure in the A-1 district except on corner lots, where the principal frontage of the lot shall have a setback of at least twenty-five (25') feet and the other setback shall be at least twenty (20') feet.

c. *Yard; Rear*. Rear yard provisions for the A-1 district shall be the same as those for the R-6 district.

32-36.6 Land Use and Variance Permits.

a. *Land Use and Variance Permit; Granting*. Land use permits for the special uses enumerated in paragraph b. of subsection 32-36.2 and variance permits to modify the provisions contained in paragraph a. of subsection 32-36.3 through paragraph c. of subsection 32-36.5 may be granted in accordance with Section 32-3.

32-37 A-2 GENERAL AGRICULTURAL DISTRICT.

32-37.1 General.

a. *General Provisions*. All of the land lying within an A-2 general agricultural district may be used for any of the following uses, under the following regulations set forth in this section.

32-37.2 Uses.

a. *Uses Permitted*. Uses permitted in the A-2 district shall be as follows:

1. All types of agriculture, including general farming, horticulture, floriculture, nurseries and greenhouses, mushroom rooms, dairying, livestock production, fur farms, poultry raising, animal breeding, aviaries, apiaries, forestry, and similar agricultural uses;

2. Other agricultural uses, including the erection and maintenance of sheds, warehouses, granaries, dehydration plants, hullers, fruit and vegetable packing plants, and buildings for the storage of agricultural products and equipment;

3. A stand not exceeding two hundred (200) square feet for sale of agricultural products grown on the premises. The stand shall be set back at least twenty-five (25') feet from the front property line;

4. A detached single family dwelling on each parcel and the accessory structures and uses normally auxiliary to it;

5. Foster home or family care home operated by a public agency, or by a private agency which has obtained State or local approval (license) for the proposed operation, where not more than six (6) minors reside on the premises with not more than two (2) supervisory persons.

b. *Uses With Land Use Permit*.

1. In an A-2 district, a land use permit may allow the following uses.

2. Allowable uses include those listed in paragraph b. of subsection 32-36.2.

3. Other allowable uses are:

(a) Merchandising of agricultural supplies and services incidental to an agricultural use;

(b) Canneries, wineries, and processing of agricultural products;

(c) Cold storage plants;

(d) Slaughterhouses and stockyards;

(e) Rendering plants and fertilizer plants or yards;

(f) Livestock auction or sales yards;

(g) Living accommodations for agricultural workers to be primarily used for temporary housing of agricultural workers while performing seasonal agricultural work on the owner's property;

(h) Commercial recreational facilities when the principal use is not in a building.

4. Other allowable uses are:

(a) Boat storage areas within one (1) mile by public road of a boat launching facility open to the public.

c. *Uses Refuse Disposal Site; Permit Required*. Refuse disposal sites are permitted in the A-2 district upon the issuance of a permit under the provisions of Chapter 418-4 of the Contra Costa County Code.

32-37.3 Lots.

a. *Lot Area, Width and Depth.* Except as provided in paragraph b. of this subsection, uses allowable under subsection 32-37.2 are allowed only on lots which equal or exceed all of the following: five (5) acres in area, two hundred fifty (250') feet average width, and two hundred (200') foot depth.

b. *Existing Legal Lots Excepted*. Any single lot legally created in an A-2 district before November 29, 1973, at least forty thousand (40,000) square feet in area may be used as provided in subsection 32-37.2.

32-37.4 Building Height.

a. *Building Height; Maximum*. Building height provisions for the A-2 district shall be the same as those for the A-1 district, subsection 32-36.4.

32-37.5 Yards.

a. *Yard; Side*. There shall be an aggregate side yard width of at least forty (40') feet. No side yards shall be less than twenty (20') feet in width. No barns, stables, apiaries, aviaries, or other buildings or structures used to house livestock, grainfed rodents, bees, birds, or poultry shall be located in the A-2 district nearer than fifty (50') feet to the boundary line of any residential land use district.

b. *Yard; Setback*. Setback (front yard) provisions for the A-2 district shall be the same as those for the A-1 district (paragraph b. of subsection 32-36.5).

c. *Yard; Rear*. There shall be a rear yard of at least fifteen (15') feet for any structure.

32-37.6 Land Use and Variance Permits.

a. *Land Use and Variance Permit; Granting*. Land use permits for the special uses enumerated in paragraph b. of subsection 32-37.2 and variance permits to modify the provisions contained in paragraph a. of subsection 32-37.3 through paragraph c. of subsection 32-37.5 may be granted in accordance with Section 32-3.

32-38 A-4 AGRICULTURAL PRESERVE DISTRICT.

32-38.1 General.

a. *General Provisions*. All lands within an A-4 agricultural preserve district may be used for any of the following uses, under the following regulations set forth in this chapter.

b. *Intent and Purpose*. This land use district is intended to provide areas that provide primarily for the commercial production of food and fibre and other compatible uses consistent with the intent and purpose of the Land Conservation Act of 1965.

32-38.2 Uses.

a. *Uses Permitted*. Uses permitted in the A-4 district shall be as follows:

1. All types of commercial, agricultural production, including general farming, horticulture, floriculture, livestock production, aviaries, apiaries, forestry and similar agricultural uses, excepting those uses requiring a permit in paragraph b. of this subsection.

2. Those agricultural and compatible uses specifically agreed upon between the County and the landowner at the time of entering into the agreement and designated in writing within the agreement.

b. *Uses Requiring Land Use Permit*. In the A-4 district the following uses are permitted on the issuance of a land use permit:

1. Related commercial agricultural uses including the erection, or modification of sheds, warehouses, granaries, hullers, dryers, fruit and vegetable packing and buildings for the storage of agricultural products and equipment;

2. A stand not exceeding four hundred (400) square feet for the sale of agricultural products grown on the premises, if the stand is set back at least twenty-five (25') feet from the front property line;

3. Residence of the owner, owners, lessee, or lessor of the land on which the use is conducted. In no event shall any residential structure be permitted to be built or additional residential structure be erected on less than twenty (20) acres per unit;

4. Oil and gas drilling and production including the installation and use of only such equipment, structures and facilities as are necessary and convenient for drilling and extracting operations;

5. A home occupation;

6. Nurseries and greenhouses;

7. Hog ranches;

8. Dairying;

9. Fur farms;

10. Livestock and feed yards;

11. Poultry raising;

12. Commercial fish farming;

13. Wineries and facilities for processing of all agricultural products produced on the premises;

14. Living accommodations for agricultural workers employed on the property of the owner;

15. Mushroom houses;

16. Commercial radio and television receiving and transmitting facilities but not including broadcasting studios or business offices;

17. Those uses described in Section 51201(e) of the Government Code.

32-38.3 Parcels.

a. *Parcel Size*. Unless otherwise permitted in accordance with paragraph a.,2. of subsection 32-38.2, no structure permitted in the A-4 district shall be placed or erected upon a parcel smaller than twenty (20) acres.

b. *Parcel Width*. No agricultural pursuit shall be permitted, and no structure erected or placed on a lot less than three hundred (300') feet in average width.

32-38.4 Lots.

a. *Lot Depth*. No agricultural pursuit shall be permitted, nor shall any structure or use herein permitted be erected, placed, or established on a lot less than three hundred (300') feet deep.

32-38.5 Building Height.

a. *Building Height; Maximum*. There shall be no maximum building or structure height in the A-4 district.

32-38.6 Yards.

a. *Yard; Side*. No side yard shall be less than fifty (50') feet in width; barns, stables, and other buildings or structures used to house livestock, grainfed rodents, or poultry shall be at least fifty (50') feet from the boundary line of any residential land use district.

b. *Yard; Setback*. There shall be a setback (front yard) of at least fifty (50') feet for any building or structure.

c. *Yard; Rear*. There shall be a rear yard of at least twenty-five (25') feet for any building or structure.

32-38.7 Land Use and Variance Permits.

a. Land Use and Variance Permit; Granting. Land use permits for the special uses enumerated in paragraph b. of subsection 32-38.2 and variance permits to modify the provisions contained in subsection 32-38.3 through subsection 32-38.6 may be granted in accordance with subsection 32-3.

32-39—32-44 RESERVED.

32-45 DOWNTOWN BUSINESS DISTRICT. *

* Editor's Note: Prior ordinances codified herein include portions of Ordinance Nos. 135 and 90-18.

Division 1

INTRODUCTION

32-45.1 Purpose and Intent.

It is the purpose and intent of this chapter to provide the Town of Danville with a set of land use and development standards for the continued physical and economic growth of the designated downtown area, consistent with the Downtown Master Plan and the General Plan.

The architectural and overall development pattern of the Downtown Business District originated in the mid-19th century, and continued to develop up through the present. Preservation of the district's unique history and character along with other essential qualities is a high priority. Future growth and change must maintain the existing character through use of compatible materials, scale and massing.

The Downtown Business District includes thirteen (13) land use areas which detail specific land uses that may occur. These thirteen (13) land use areas are shown on the zoning map in Figure 6 of the 2030 General Plan.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.2 Definitions and Measurement Standards.

In this chapter unless the context otherwise requires:

Applicant shall mean the person filing an application in compliance with this chapter and who is: The owner or lessee of property; the party who contracted to purchase property and who presents written authorization from the property owner to file an application with the Town; or, the agent of either of the above who presents written authorization from the property owner to file an application with the Town.

Arbors shall mean open trellis-like elements that can be used to emphasize building entries or outdoor activity spaces.

Area of elevation shall mean the total height and length of a building as viewed from off-site.

Awnings shall mean canvas or other materials that provide shade from sun, shelter, and protection from the elements off a storefront, window, or doorway.

Bar/Nightclub/Lounge shall mean businesses serving beverages, including beer, wine, and mixed drinks, for consumption on the premises as a primary use.

Bed and Breakfast Inns shall mean an establishment offering overnight accommodation and breakfast, but usually not other meals, within a converted single-family dwelling, and typically with fewer than ten bedrooms available for commercial use.

Blended Use shall mean a mix of uses where at least seventy-five (75) percent of the uses in the tenant floor space are conforming uses under the subject Downtown Business District Area. The remaining portion of the tenant space, which may include the floor and walls for the display of merchandise, shall be limited to the uses listed as conditional uses or allowed uses on the second floor within the subject Downtown Business District Area, or other uses that are found to be compatible by the Chief of Planning on a case-by-case basis. If, after the initial occupancy of the business, the business model is modified from the initial blended use, either by ratio or uses, in a manner that results in a higher parking demand, then the Planning Division shall recalculate the parking demand and require payment of any additional parking in-lieu fees, as applicable in the Old Town Parking Area.

Building overhang shall mean any portion of a structure (including appurtenant structures) that abuts and extends over the foundation line of the building.

Building site area shall mean the total gross land area of the property available for development of buildings, parking and landscape.

Business shall mean an organization involved in the trade of goods, services, or both to customers that, for zoning regulation purposes, conducts business as the specific enterprise, occupant or tenant utilizing space within a structure.

Development shall mean any new construction or exterior change, modification or exterior expansion of an existing building.

Emergency shelter shall mean housing with minimal supportive services for homeless persons that is limited to occupancy of six (6) months or less by a homeless person and where housing services provided are made available to individuals or households may be denied emergency shelter because of an inability to pay.

Fascia shall mean that portion of a structure that presents a flat, horizontal band across the eave line of a building elevation.

Floor Area Ratio (FAR) shall mean the numerical value obtained by dividing the aboveground gross conditioned floor area of a building or buildings located on a lot by the total area of the lot.

Front and side of corner lots shall mean the narrowest frontage of a lot facing the street is the front and the longest frontage facing the intersecting street is the side, regardless of which direction the structure faces.

Heritage Resource shall mean a structure, site, improvement or natural feature that has been designated for heritage preservation by the Danville Town Council pursuant to subsection 32-72.6.

Hotel or Motel shall mean a commercial establishment offering overnight visitor accommodations, but not providing room rentals on an hourly basis. These uses include facilities available to the general public, including without limitation meeting and dining facilities, provided these are an integral part of the hotel or motel operations.

Legal nonconforming business or use shall mean a business or use that was legally established and established before the adoption of this chapter that does not conform to these regulations.

Legal nonconforming use shall mean a use that does not conform to these regulations which was in existence prior to adoption of this chapter.

Office, business and professional shall mean offices of firms or organizations providing professional, executive, or administrative services, often by appointment, such as, but not limited to: accounting, advertising, architecture, dentistry, engineering, graphic design, insurance, legal services, and medicine.

Office, service uses shall mean businesses such as, but not limited to, the following: escrow/title/notary public, financial institutions/banks/savings and loan, and real estate.

Outdoor display of merchandise shall mean the display of merchandise outside of the enclosed tenant space consistent with the requirements of 32-45.25.

Outdoor sales event shall mean a temporary outdoor sales event where merchandise is displayed entirely on-site, but outside of the tenant space, and lasts no longer than six (6) days every six (6) months.

Outdoor seating shall mean the use of an adjacent, outside area of a tenant space for the purpose of serving food or beverages consistent with the requirements of 32-45.25.a.

Outdoor storage of. merchandise shall mean the display and storage of merchandise outside of the enclosed tenant space that is not brought into the tenant space each night. This use shall include the outdoor display of automobiles.

Personal service uses shall mean businesses that provide recurrently needed, non-medical services of a personal nature to customers as their primary activity. Personal service includes, but is not limited to salons, barbers, non-medical massage establishments, estheticians and nail salons.

Project shall be any proposal for new or changed use, or for new construction, alteration or enlargement of any structure, that is subject to the provisions of this chapter.

Public uses shall mean uses such as, but not limited to, meeting rooms, theaters, auditoriums, libraries, etc.

Restaurant, food to go shall mean businesses designed as a takeout facility in which limited food is consumed on the premises where no table service is provided and patrons pay before eating.

Restaurant, full service shall mean businesses that are primarily engaged in serving prepared food or beverages for on-site consumption to patrons who are generally served while seated. Take out service may not be available but may be provided on a very limited basis as an ancillary use.

Restaurant, limited service shall mean businesses where food and beverages are prepared and may be consumed on the premises, taken out, or delivered. Customers are only partially served while seated.

Retail shall mean businesses selling, renting, or exchanging goods, wares, or merchandise. Retail includes, but is not limited to: art galleries, clothing stores, copying/duplicating/printing, drug stores, florists, floor coverings, grocery stores, interior decorators with goods, optical goods and service, picture framing, portrait studios, post office/ parcel service, and shoe and garment repair with goods. Restaurant uses are not considered retail uses.

Service commercial shall mean uses that provide on-site service to customers as their primary activity and which are compatible with the immediate area. Business activities included in this category shall mean, but are not limited to, the following: business or professional schools, cultural improvement schools such as, but not limited to, music, dance and martial arts, health and fitness clubs, and places of cultural entertainment including museums, libraries and theaters.

Setback shall mean the distance by which a structure, parking area or other development feature must be separated from a lot line, easement, other structure or development feature for purposes of this chapter, the term "yard" may be used interchangeably with the term "setback".

Setbacks from street corner shall mean that point of intersection of the required setback lines from access streets, prolonged to the point of intersection.

Soffit shall mean the horizontal underside of a building projection, also referred to as an eave.

Tasting room shall mean a business providing on-site tasting and consumption of beer and wine only and retail sales directly to the public. Food may be offered as part of the beer and wine tasting. The tasting room may be operated accessory to a separate on-site use or as a stand-alone use. Outdoor seating areas are permitted as an accessory use to a tasting room.

Use shall mean the type of business, (e.g., retail, restaurant, service commercial, service office, etc.).

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.3 Applicability.

This section applies to all development within the Downtown Business District (designated DBD on the Town zoning map) and regulates all existing uses, proposed new uses, remodels and new construction.

Land uses will be regulated through the Development Plan review procedure as follows:

a. *Existing Uses and Structures.* A lawful use of land or buildings existing on November 16, 2017, but which does not conform to this chapter, is a legal nonconforming use/business. No review is required for such a structure, use or business until there is a change of use and/or business. Expansion or intensification of a legal nonconforming use/business is discouraged. Minor intensification or expansions may be considered under a Land Use Permit under special circumstances if the application meets the character and intent of the DBD in which it is located and there is finding of substantial conformance with this chapter.

All exterior alterations of structures, or alterations to the exterior physical expression of businesses or uses, as applicable require Development Plan pursuant to Division 5 of this chapter. A legal nonconforming use may be sold as a legal nonconforming use providing the character and type of business remains the same and all impacts relating to traffic, parking and other environmental impacts are not increased. A legal nonconforming use shall be deemed illegal after the use ceases for thirty (30) consecutive days.

b. *New Uses Within an Existing Structure.* When a new use/business is proposed for an existing structure necessitating exterior alterations to the structure, the applicant is required to obtain Development Plan approval pursuant to Division 5 of this chapter.

c. *New Structures.* Development Plan approval pursuant to Division 5 of this chapter is required for a new project. A "new project" includes not only projects involving a complete redevelopment of the site, resulting in all new construction, but shall also include projects resulting in changes to the facade of existing buildings, or remodeling which results in an increase of the floor area ratio of an existing development. Maintenance, such as like replacement, or repair of dilapidated features, is not considered a new project and is not subject to a development plan.

d. *Joint Study Session Review.* Development plan applications for properties located within Areas 11 and 12 are subject to joint study session review by the Design Review Board, Planning Commission and Town Council, prior to final action by the Planning Commission. The Heritage Resource Commission shall also be included if the project involves a Town-identified Heritage Resource.

e. *Designated Heritage Resources or Historically Significant Resource.* Alteration of a Designated Heritage Resource or a historically significant resource requires development plan approval pursuant to Division 5 and subsection 32-72.8 as regards the reviewing body for the proposed alteration and the standards of review to be considered prior to issuance of the requisite Certificate of Approval.

(Ord. 2005-07, § 2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.4—32-45.9 Reserved.

Division 2

SPECIFIC USES AND DEFINITIONS

32-45.10 Land Use Areas.

These thirteen (13) land use areas are intended to accommodate a mix of uses and to guide development to appropriate locations within the downtown area, consistent with the Downtown Master Plan and the General Plan. The areas and their permitted uses are as set forth in subsections 32-45.11 through 32-45.21. Upon the determination of the Chief of Planning, the list of permitted and conditional uses in the thirteen (13) land use areas may be expanded to include similar uses, providing that the purpose and intent of each area is preserved and there is a finding of substantial conformance with this chapter.

Building height. All buildings and structures are limited to the height shown below for the area in which the structure is located. The height limitation applies to roofs, roof projections, mechanical equipment, microwave sending and receiving devices and all other projections. Building height shall mean the vertical distance measured from the average level of the highest and lowest point of finished grade or natural grade, whichever is lower, of the lot covered by the building to the highest point of the structure.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013- 05; Ord. 2017-07, § 2)

***32-45.11* Area 1 and Area 2A: Old Town Retail.**

a. *Purpose.* To provide for an intensely developed central core area of ground floor retail, and second floor service commercial or service office businesses where merchandise is stored on-site and all transactions and/or services occur entirely within an enclosed building. Retail is defined as any business activity that devotes the major portion of the interior space to exhibit products which are for sale to the general public and which provides pedestrian interest and amenities. Uses in this area encourage shoppers to visit a variety of stores after parking or arriving by public transit.

b. *Permitted Uses.* The following uses are permitted in Area 1 subject to the development requirements in paragraph d.:

1. Retail;
2. Restaurant, food to go;
3. Restaurant, full service;
4. Restaurant, limited service;
5. Bar/nightclub/lounge;
6. Tasting room; " Blended use;
7. Incidental accessory uses;
8. Outdoor seating for restaurants and establishments with beer and wine only licenses from the California Department of Alcoholic Beverage Control, and subject to the standards listed under Section 32-45.25.a; and
9. Outdoor display of merchandise.

c. *Conditional Uses.* The following activities are permitted upon issuance of a Land Use Permit if they are proposed to occupy more than twenty-five (25%) percent of a ground floor tenant space:

1. Personal service;
2. Service commercial;
3. Service office;
4. Government facilities;
5. Residential (above ground-floor only);
6. Outdoor storage and/or display of merchandise not provided under subsection 32-45.27;
7. Outdoor sales event; and
8. Business and professional office.

Other uses not specifically permitted or conditionally permitted in Area 1 or 2A or allowed via subsection 32-45.10, may be authorized by the Chief of Planning or referred to the Planning Commission on a case-by-case basis where a finding is made that the proposed use is consistent with the intent and purpose of this chapter. Such case-by-case review shall take into consideration the location, size and design of the building and the ability to effectively market a retail business.

d. *Prohibited Uses.* The following uses are prohibited in Area 1: 1. Short term rentals.

e. *Development Requirements.*

1. Floor Area Ratio. The maximum allowable floor area ratio is eighty percent (80%) of the net area available for development, (as determined by a planning entitlement deemed complete for processing), inclusive of all conditioned space.

2. Ground Floor Uses. One hundred percent (100%) of ground floor tenant spaces shall generally be limited to retail and/or restaurant, bar/ nightclub lounge, tasting room, or blended uses. An exception can be made to allow up to a maximum of twenty-five percent (25%) of the ground floor of a building or shopping center to be personal service, service office, or service commercial uses if a finding can be made that the subject space is difficult to lease due to its location away from main pedestrian corridors (i.e., located down an alleyway, in a courtyard area, etc.). The exception may only be granted through the issuance of a Land Use Permit issued by the Chief of Planning or may be referred to the Planning Commission on a case-by-case basis.

3. Second Floor Uses. In addition to the allowed uses on the ground floor, personal service, service office, service commercial, business and professional office uses are permitted on the second floor.

4. Height limit is two (2) stories or thirty-five (35) feet, whichever is less.

5. Setback Requirements.

Front yard: Average of ten (10) feet minimum from a public right-of-way. Side and rear yards: No minimum, except on corner lots where there shall average ten (10) feet from a public right-of-way.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.12 Area 2: Old Town Retail Transition.

a. *Purpose.* To provide a transition and buffer between the more intensely developed central business district (Old Town Retail; Area 1 or 2A) and areas designated for mixed use and commercial development. This area allows a wider range of uses which are intended to be complimentary to the central business district area.

b. *Permitted Uses.* The following uses are permitted in Area 2, subject to the development requirements in paragraph d.:

1. Retail;

2. Restaurant, food to go;

3. Restaurant, full service;

4. Restaurant, limited service;

5. Bar / nightclub / lounge;

6. Tasting room;

7. Blended use;

8. Amusement places/arcades;

9. Auditorium;

10. Catering;

11. Clothes/carpet/ drapery cleaners without plant;

12. Emergency medical care;

13. Hotels/ motels /bed and breakfast;

14. Government facilities;

15. Personal service;

16. Service commercial;

17. Service office;

18. Outdoor seating for restaurants and establishments with beer and wine only licenses from the California Department of Alcoholic Beverage Control, and subject to the standards listed under Section 32-45.25.a;

19. Incidental accessory uses; and

20. Outdoor display of merchandise.

c. *Conditional Uses.* The following activities are permitted with a Land Use Permit:

1. Child care;

2. Residential (above ground-floor only);

3. Outdoor storage of merchandise;

4. Outdoor sales; and

5. Drive-thru facilities.

Other uses not specifically permitted or conditionally permitted in Area 2, or allowed via subsection 32-45.10, may be authorized by the Chief of Planning or referred to the Planning Commission on a case-by-case basis where a finding is made that the proposed use is consistent with the intent and purpose of this chapter. Such case-by-case review shall take into consideration the location, size and design of the building.

d. *Prohibited Uses.* The following uses are prohibited in Area 2: 1. Short term rentals.

e. *Development Requirements.*

1. The maximum allowable floor area ratio is eighty percent (80%) of the net area available for development (as determined by a planning entitlement deemed complete for processing), inclusive of all conditioned space.

2. A minimum of twenty-five percent (25%) of the total ground floor space of the building or development shall be devoted to retail, all restaurant types, bar/nightclub/lounge, or tasting room uses, consistent with the definition of Blended Uses. Personal service, service commercial, and service office uses are permitted to locate in up to seventy-five percent (75%) of the remaining portion of the ground floor space of the building or development.

3. In addition to allowed ground floor uses, personal service, service office, service commercial, business and professional office uses are permitted on the second floor.

4. The height limit is two (2) stories or thirty-five (35) feet, whichever is less.

5. Set back requirements are as follows:

Front yard: Average of ten (10) feet minimum from a public right-of-way. Side and rear yards: No minimum, except on corner lots where there shall be an average of ten (10) feet from a public right-of-way.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.13 Area 3: Old Town Mixed Use.

a. *Purpose.* To introduce uses that are consistent and compatible with the pedestrian orientation of Area 1 and Area 2A-01d Town Retail (subsection 32-45.11),

b. *Permitted Uses.* The following uses are permitted in Area 3, subject to the development requirements in paragraph d.:

1. Retail;

2. Restaurant, food to go;

3. Restaurant, full service;

4. Restaurant, limited service;

5. Bar / nightclub / lounge;

6. Tasting room;

7. Blended use;

8. Amusement places/arcades;

9. Auditorium;

10. Catering;

11. Clothes/carpet/drapery cleaners without plant;

12. Emergency medical care;

13. Hotels/ motels /bed and breakfast;

14. Government facilities;

15. Service office;

16. Business and professional office;

17. Outdoor seating for restaurants and establishments with beer and wine only, licenses from the California Department of Alcoholic Beverage Control, and subject to the standards listed under Section 32-45.25.a;

18. Emergency shelters;

19. Incidental accessory uses; and

20. Outdoor display of merchandise.

c. *Conditional Uses.* The following activities are permitted with a Land Use Permit:

1. Child care;

2. Residential (above ground-floor only)

3. Outdoor storage of merchandise; and

4. Outdoor sales event.

Other uses not specifically permitted or conditionally permitted in Area 3, or allowed via subsection 32-45.10, may be authorized by the Chief of Planning or referred to the Planning Commission on a case-by-case basis if a finding is made that the proposed use is consistent with the intent and purpose of this chapter. Such case-by-case review shall take into consideration the location, size and design of the building.

d. *Prohibited Uses.* The following uses are prohibited in Area 3: 1. Short term rentals.

e. *Development Requirements.*

1. The maximum allowable floor area is sixty-five percent (65%) of the net area available for development (as determined by a planning entitlement deemed complete for processing), inclusive of all conditioned space.

2. The height limit is two (2) stories or thirty-five (35) feet, whichever is less.

3. Set back requirements are as follows:

Front yard: Average of ten (10) feet minimum from a public right-of-way. Side yard: Ten (10) feet total; minimum of five (5) feet. For a corner lot, average of ten (10) feet from public right-of-way. Rear yard: Twenty (20) feet minimum.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. No. 2017-07, § 2)

32-45.14 Area 4: Resident Serving Commercial.

a. *Purpose.* To provide services for the convenience of residents and the general community. Uses for this area include those uses which are not compatible with uses in a traditional central business district (Areas 1, 2 and 2A).

b. *Permitted Uses.* The following uses are permitted in Area 4, subject to the development requirements in paragraph d.:

1. Retail;

2. Restaurant, food to go;

3. Restaurant, full service;

4. Restaurant, limited service;

5. Bar/nightclub/lounge;

6. Tasting room;

7. Blended use;

8. Amusement places/arcades;

9. Auditorium;

10. Catering;

11. Clothes/ carpet/ drapery cleaners without plant;

12. Emergency medical care;

13. Hotels/motels/bed and breakfast inns;

14. Government facilities; Cabinet shop;

15. Glass shops and repair facilities;

16. Gunsmith;

17. Home improvement services;

18 Janitorial supply and service;

19. Locksmith;

20. Miscellaneous repair of household goods/business equipment;

21. Mortuary;

22. Nursery and gardening sales and supplies;

23. Pool supply;

24. Service station;

25. Trade schools;

26. Upholstery supply/repair;

27. Automotive oriented services (e.g., auto upholstery);

28. Service office;

29. Personal service;

30. Outdoor seating for restaurants and establishments with beer and wine only licenses from the California Department of Alcoholic Beverage Control, and subject to the standards listed under Section 32-45.25.a;

31. Incidental accessory uses; and

23. Outdoor display of merchandise.

c. *Conditional Uses.* The following activities are permitted with a Land Use Permit:

1. Child care facility;

2. Drive-thru facilities;

3. Outdoor storage of merchandise;

4. Outdoor sales event;

5. Equipment sales and rental;

6. Heating, air conditioning/plumbing supply and repair;

7. Laundromat;

8. Sign painting;

9. Storage building;

10. Veterinarian hospital/boarding/pet grooming;

11. Auto/boat/motorcycle/trailer/ recreational vehicle sales or rentals;

12. Auto wash;

13. Auto repair (body, paint and tire) excluding wrecking and salvage;

14. Wholesale/assembly/minor manufacturing plants with storage and processing incidental to retail operation where not offensive or objectionable because of odor, dust, smoke, noise or vibration; Nursing/ convalescent home; and

15. Residential (above ground-floor only).

Other uses not specifically permitted or conditionally permitted in Area 4, or allowed via subsection 32-45.10, may be authorized by the Chief of Planning or referred to the Planning Commission on a case-by-case basis where a finding is made that the proposed use is consistent with the intent and purpose of this chapter. Such case-by-case review shall take into consideration the location, size and design of the building.

d. *Prohibited Uses.* The following uses are prohibited in Area 4: 1. Short term rentals.

e. *Development Requirements.*

1. The maximum allowable floor area ratio is fifty percent (50%) of the net area available for development (as determined by a planning entitlement deemed complete for processing), inclusive of all conditioned space.

2. Business and professional office uses are permitted on the second floor.

3. The height limit is two (2) stories or thirty-five (35) feet, whichever is less.

4. Set back requirements are as follows:

Front yard: Ten (10) feet minimum from a public right-of-way. Side yard: Ten (10) feet total; minimum of five (5) feet. For a corner lot, average of ten (10) feet from public right-of-way. Rear yard: Twenty (20) feet minimum.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.15 Area 5: Commercial/Residential Mixed Use.

a. *Purpose.* Area 5 consists of property containing the Town library and community center, the Stony Brook residential development, and two commercial properties along Hartz Way. This area shall include a mix of uses serving to complement and support the retail and restaurant uses of Areas 1, 2, 2A, and 3. A minimum of two (2) acres shall be devoted to public uses.

b. *Permitted Uses.* The following uses are permitted in Area 5:

1. Retail;
2. Restaurant, food to go;
3. Restaurant, full service;
4. Restaurant, limited service;
5. Bar/ nightclub / lounge;
6. Tasting room;
7. Blended uses;
8. Service office;
9. Business and professional office;
10. Residential uses as permitted in subsection 32-45.19;
11. Public uses;
12. Hotel;
13. Outdoor seating for restaurants and establishments with beer and wine only licenses from the California Department of Alcoholic Beverage Control, and subject to the standards listed under Section 32-45.25.a;
14. Personal Service; and
15. Incidental accessory uses.

c. *Conditional Uses.* The following activities are permitted with a Land Use Permit:

1. Drive-thru facilities;
2. Residential (above ground-floor only);
3. Outdoor storage of merchandise;
4. Outdoor display of merchandise;
5. Outdoor sales event; and
6. Child care facilities when integrated into a coordinated project consisting of the entirety of Area 5.

Other uses not specifically permitted or conditionally permitted in Area 5, or allowed via subsection 32-45.10, may be authorized by the Chief of Planning or referred to the Planning Commission on a case-by-case basis where a finding is made that the proposed use is consistent with the intent and purpose of this chapter. Such case-by-case review shall take into consideration the location, size and design of the building.

d. *Prohibited Uses.* The following uses are prohibited in Area 5: 1. Short term rentals.

e. *Development Requirements.*

1. The maximum allowable floor area ratio is sixty-five percent (65%) of the net area available for development (as determined by a planning entitlement deemed complete for processing), inclusive of all conditioned space.

2. The height limit is two (2) stories or thirty-five (35) feet, whichever is less; for Town and Country Drive, the height limit is as previously established through the General Plan amendment and Development Plan entitlement.

3. Set back requirements are as follows:

Front yard: Twenty (20) feet minimum from a public right-of-way. Side yard: Fifteen (15) feet total; minimum of five (5) feet. For a corner lot, average of ten (10) feet from public right-of-way. Rear yard: Twenty (20) feet minimum.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2016-02, § 6; Ord. 2017-7, § 2)

32-45.16 Area 6: Business and Professional Offices.

a. *Purpose.* To allow a combination of commercial activity and business and professional offices except for retail commercial sales which are not ancillary to the specifically permitted uses.

b. *Permitted Uses.* The following uses are permitted in Area 6, subject to the development requirements in paragraph e.:

1. Development north and south of Town and Country Drive, east of Sheri Lane shall be limited office use as approved through the previous, property specific general plan amendment and development plan entitlements;

2. Service offices;

3. Business and Professional offices;

4. Government facilities; and

5. Incidental accessory uses.

c. *Conditional Uses.* Except for the area involving subsection b.l. above, the following uses are permitted with a Land Use Permit:

1. Restaurant, food to go;

2. Restaurant, full service;

3. Restaurant, limited service;

4. Bar/nightclub/lounge;

5. Tasting room;

6. Outdoor seating for restaurants and establishments with beer and wine only licenses from the California Department of Alcoholic Beverage Control, and subject to the standards listed under Section 32-45.25.a;

7. Blended Uses;

8. Health clubs;

9. Veterinarians;

10. Residential (above ground-floor only); and

11. Child care facilities.

Other uses not specifically permitted or conditionally permitted in Area 6, or allowed via subsection 32-45.10, may be authorized by the Chief of Planning or referred to the Planning Commission on a case-by-case basis where a finding is made that the proposed use is consistent with the intent and purpose of this chapter. Such case-by-case review shall take into consideration the location, size and design of the building.

d. *Prohibited Uses.* The following uses are prohibited in Area 6: 1. Short term rentals.

e. *Development Requirements.*

1. The maximum allowable floor area ratio is sixty-five percent (65%) of the net area available for development (as determined by a planning entitlement deemed complete for processing), inclusive of all conditioned space.

2. The height limit is two (2) stories or thirty-five (35) feet, whichever is less; for Town and Country Drive, the height limit is as previously established through the General Plan amendment and Development Plan entitlement.

3. Setback requirements are as follows:

Front yard: Twenty (20) feet minimum from a public right-of-way. Side yard: Fifteen (15) feet total, minimum of five (5) feet. For corner lots, fifteen (15) feet from the public right-of-way. Rear yard: Twenty (20) feet minimum.

(Ord. 2005-07, § 2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.17 Area 7: Retail.

a. *Purpose.* To allow the continued use of retail business which sells goods, wares and merchandise directly to the ultimate consumer.

b. *Permitted Uses.* The following uses are permitted in Area 7, subject to the development requirements in paragraph d.:

1. Retail;

2. Restaurant, food to go;

3. Restaurant, full service;

4. Restaurant, limited service;

5. Bar/nightclub/lounge;

6. Tasting room;

7. Blended use;

8. Personal service;

9. Service Commercial;

10. Service Office;

11. Amusement places/arcades;

12. Auditorium;

13. Catering;

14. Clothes/carpet/drapery cleaners without plant;

15. Emergency medical care;

16. Hotels/motels/bed and breakfast inns;

17. Government facilities;

18. Outdoor seating for restaurants and establishments with beer and wine only licenses from the California Department of Alcoholic Beverage Control, and subject to the standards listed under Section 32-45.25.a;

19. Incidental accessory uses; and

20. Outdoor display of merchandise.

c. *Conditional Uses.* The following activities are permitted with a Land Use Permit:

1. Child care;

2. Drive-thru facility;

3. Outdoor storage of merchandise; and

4. Outdoor sales event.

Other uses not specifically permitted or conditionally permitted in Area 7, or allowed via subsection 32-45.10, may be authorized by the Chief of Planning or referred to the Planning Commission on a case-by-case basis where a finding is made that the proposed use is consistent with the intent and purpose of this chapter. Such case-by-case review shall take into consideration the location, size and design of the building.

d. *Development Requirements.*

1. The maximum allowable floor area ratio is thirty-five percent (35%) of the net area available for development (as determined by a planning entitlement deemed complete for processing), inclusive of all conditioned space.

2. The height limit is two (2) stories or thirty-five (35) feet, whichever is less.

3. Setback requirements are as follows:

Front yard: Twenty (20) feet minimum from a public right-of-way. Side yard: Fifteen (15) feet total, minimum of five (5) feet. For corner lots, fifteen (15) feet from the public right-of-way. Rear yard: Twenty (20) feet minimum.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.18 Area 8: Retail/Office.

a. *Purpose.* This area is referred to as the Livery Shopping Center. This site was developed under an existing P-l Planned Unit District and maintains its own land uses and controls.

b. *Permitted Uses.* As previously approved under DP 83-3 and DP 84-9.

1. Retail;

2. Restaurant, food to go;

3. Restaurant, full service;

4. Restaurant, limited service;

5. Bar/nightclub/lounge;

6. Tasting room;

7. Blended use;

8. Outdoor seating for restaurants and establishments with beer and wine only licenses from the California Department of Alcoholic Beverage Control, and subject to the standards listed under Section 32-45.25.a;

9. Outdoor display of merchandise; and

10. Incidental accessory uses.

For the free-standing pad buildings and the shopping center area south of Sycamore Valley Road:

11. Business and professional offices;

12. Service offices; and

13. Service commercial.

c. *Prohibited Uses.*

1. Supermarkets and drugstores;

2. Cabaret;

3. Warehouses;

4. Coin operated laundries;

5. Automobile sales, service or parts;

6. Heavy Equipment rentals;

7. Amusement arcades;

8. Service stations;

9. Car washes; and

10. A use with drive-up or walk-up windows where food is primarily prepared for off-premise consumption.

d. *Conditional Uses.* The following activities are permitted with a Land Use Permit:

1. Outdoor storage of merchandise; and

2. Outdoor sales event.

Other uses not specifically permitted or conditionally permitted in Area 8, or allowed via subsection 32-45.10, may be authorized by the Planning Commission on a case-by-case basis where a finding is made that the proposed use is consistent with the intent and purpose of this chapter. Such case-by-case review shall take into consideration the location, size and design of the building.

e. *Development Requirements.*

1. The maximum allowable floor area ratio is thirty-five percent (35%) of the gross site area, inclusive of all conditioned space.

2. The height limit is as constructed.

3. Setback requirements are as previously approved and constructed under Development Plan DP 84-9.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.19 Area 9: Multi-Family Residential High/Medium Density.

a. *Purpose.* To permit the use of properties for multifamily residential use consistent with the adopted Residential - Multifamily - High/Medium (20 to 25 dwelling units per acre) land use designations in the General Plan.

b. *Permitted Uses.* The permitted multifamily residential uses set forth in Section 32-24 of the Danville Municipal Code.

c. *Conditional Uses.* Conditional uses as contained in subsection 32-24.4 of the Danville Municipal Code may be permitted, upon issuance of a Land Use Permit.

d. *Prohibited Uses.* The following uses are prohibited in Area 9: 1. Short term rentals.

e. *Height Limit.* The height limit is two (2) stories or thirty-five (35) feet, whichever is less. The maximum height for an accessory structure is fifteen (15) feet.

f. Setback requirements are as follows:

Front yard: Twenty-five (25) feet minimum from a public right-of-way. Side yard: Forty (40) feet total, minimum of twenty (20) feet. Rear yard: Twenty (20) feet minimum.

g. *Supplemental Submittal Requirements.* Application materials to be supplied at the time of submittal of a development plan application shall, in addition to the submittal requirements addressed in subsection 32-45.41 - Application detail the following:

1. The location, number and dimensional layout of any tandem parking spaces, motorcycle parking spaces, or bicycle parking spaces proposed for the project;

2. The minimum size and average size of individual private open space areas (i.e., enclosed private patios or private balconies) proposed for the project;

3. The location, minimum size, and average size of private storage spaces proposed for the project; and

4. The location, design and construction materials proposed for project fencing.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2016-02, § 7; Ord. 2017-07, § 2)

32-45.20 **Area 10: Mixed Use.**

a. *Purpose.* This area is referred to as the Prudential Building, located at 630 San Ramon Valley Boulevard. This site was developed under an existing P-l Planned Unit District and maintains its own land uses and controls.

b. *Permitted Uses.* As previously approved under Development Plan DP 2000-27, business and professional offices, services office, retail, and incidental accessory uses.

c. *Conditional Uses.* The following activities are permitted with a Land Use Permit:

1. Outdoor storage of merchandise;

2. Outdoor display of merchandise; and

3. Outdoor sales.

d. *Prohibited Uses.* Restaurant, full service; Restaurant limited service; Bar/nightclub/lounge; tasting room, and Residential.

Other uses not specifically permitted or conditionally permitted in Area 10, or allowed via subsection 32-45.10, may be authorized by the Planning Commission on a case-by-case basis where a finding is made that the proposed use is consistent with the intent and purpose of this chapter. Such case-by-case review shall take into consideration the location, size and design of the building.

e. *Height Limit.* The height limit is two (2) stories or thirty-five (35) feet, whichever is less. The maximum height limit for accessory structures is fifteen (15) feet.

f. *Development Requirements.*

1. The maximum allowable floor area ratio is sixty-five percent (65%) of the net area available for development (as determined by a planning entitlement deemed complete for processing), inclusive of all conditioned space.

2. The height limit is two (2) stories or thirty-five (35) feet, whichever is less;

3. Setback requirements are as follows:

Front yard: Twenty (10) foot average from public right-of-way. Side yard: Fifteen (15) feet total, minimum of five (5) feet. Rear yard: Twenty (20) foot minimum.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.21 Area 11: Special Opportunity District

a. *Purpose.* To permit flexible development standards tailored to best meet the needs of large downtown sites while maintaining the desired mix of land uses which are compatible with the downtown area.

b. *Permitted Uses.* The following uses are permitted in Area 11, subject to the development requirements in paragraph d.:

1. Retail;

2. Restaurant, full service;

3. Restaurant, limited service;

4. Restaurant, food to go;

5. Bar/ night club/ lounge;

6. Tasting room;

7. Blended use;

8. Outdoor display of merchandise;

9. Residential (above ground-floor only);

10. Hotels / motels /bed and breakfast inns;

11. Personal service, service office, service commercial, business and professional office uses (above ground-floor only);

12. Outdoor seating for restaurants and establishments with beer and wine only licenses from the California Department of Alcoholic Beverage Control, and subject to the standards listed under Section 32-45.25.a; and

13. Incidental accessory uses.

c. *Conditional Uses.* The following uses are permitted upon issuance of a Land Use Permit if they are proposed to occupy more than twenty-five (25) percent of a ground floor tenant space:

1. Residential (where developed as a ground-floor use);

2. Personal service (where consistent with 32-45.21.d2);

3. Service commercial;

4. Service office;

5. Government facilities;

6. Outdoor storage of merchandise;

7. Outdoor sales event; and

8. Business and professional office.

Other uses not specifically permitted or conditionally permitted in Area 11 or allowed via subsection 32-45.10, may be authorized by the Chief of Planning or referred to the Planning Commission on a case-by-case basis where a finding is made that the proposed use is consistent with the intent and purpose of this chapter. Such case-by-case review shall take into consideration the location, size and design of the building and the ability to effectively market a retail business.

d. *Prohibited Uses.* The following uses are prohibited in Area 11:

1. Short term rentals.

e. *Development Requirements.*

1. The maximum allowable floor area ratio is eighty percent (80%) of the net area available for development (as determined by a planning entitlement deemed complete for processing), inclusive of all conditioned space. Development of the site may be considered for a floor area ratio higher than eighty percent (80%), as determined on a case-by-case basis through the review of an individual Development Plan application, in exchange for the provision of up to one hundred percent (100%) on-site parking through the construction of underground or structured parking.

2. A minimum of seventy-five percent (75%) of the total ground floor space of the building or development shall be devoted to retail or restaurant uses, consistent with the definition of blended uses personal service, service office, and service commercial uses may be considered for a location in a maximum of twenty-five percent (25%) of the ground floor space where such use is located in a courtyard area or other area off the main pedestrian access and upon issuance of a Land Use Permit where a finding is made that uses will result in the creation of substantial pedestrian traffic. Where permitted personal service, service office, or service commercial uses are those which provide on-site service to customers as their primary activity and which are compatible with the immediate area. This twenty-five percent (25%) allowance may be in addition to any non-retail or non-restaurant uses within the building established as part of a blended use.

3. New development shall be designed to maximize the provision of on street parking adjacent to the site. This may include the provision of angled parking, consolidation of driveways, and/or other design solutions as appropriate.

4. The height limit is thirty-five (35) feet.

5. The setback requirements are as established through a site-specific Development Plan approval.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2016-02, § 8; Ord. 2017-07, § 2)

32-45.21.1 Area 12: Multifamily Residential High Density.

a. *Purpose.* To permit the use of properties for multifamily residential use consistent with the adopted Residential - Multifamily - High Density (25 to 30 dwelling units per acre) land use designation in the Downtown Master Plan and the General Plan.

b. *Permitted Uses.* All multifamily residential uses permitted under Section 32-24 of the Danville Municipal Code; and

c. *Conditional Uses.* Conditional uses as contained in subsection 32-24.4 of the Danville Municipal Code may be permitted upon issuance of a Land Use Permit.

d. *Prohibited Uses.* The following uses are prohibited in Area 12:1. Short term rentals.

e. *Development Requirements.*

1. The maximum allowable floor area ratio is eighty percent (80%) of the net area available for development (as determined by a planning entitlement deemed complete for processing), inclusive of all habitable or conditioned space. Non-habitable or non-conditioned project development area (e.g., enclosed individual garages, carports, or structured basement parking facilities) shall not be assessed towards a project's floor area ratio calculation.

2. The height limit is thirty-five (35) feet. The height limit for accessory structures is fifteen (15) feet.

3. Reduction from the applicable DBD numerical parking requirements set forth in subsection 32-45.34(q) may be considered on a project-by-project basis where housing to be developed is provided for seniors, or where it is determined that a reduced dependency on personal vehicles can reasonably be anticipated.

f. *Building Setbacks.* The minimum building setbacks shall be as established through a site-specific development plan approval. Future development abutting the 1-680 freeway shall be set back to the extent feasible to mitigate potential impacts associated with freeway noise, vibration, and/or air quality. Development along San Ramon Creek shall be set back to the extent feasible in order to accommodate a pedestrian path in vicinity of the top of bank of the creek.

g. *Supplemental Submittal Requirements.* Application materials to be supplied at the time of submittal of a development plan application shall, in addition to the submittal requirements addressed in subsection 32-45.41 Application detail the following:

1. The location, number and dimensional layout of any tandem parking spaces, motorcycle parking spaces, or bicycle parking spaces proposed for the project.

2. The minimum and average sizes of individual private open space areas (i.e., open or covered private patios and private balconies) proposed for the project.

3. The location, minimum size, and average size of private storage spaces proposed for the project.

4. The proposed means to screen proposed above-ground transformers, meters, and other utilities.

5. The location, design and construction materials proposed for project fencing and retaining walls.

6. The percent coverage of land by buildings and structures.

7. The location and design of onsite project lighting.

8. The location, design and construction materials proposed for project porches, stoops, and similar design features.

(Ord. 2013-05; Ord. 2016-02, § 9; Ord. 2017-07, § 2)

Division 3

DEVELOPMENT STANDARDS

32-45.22 **Architectural Development Standards.**

This section sets forth specific architectural design guidelines for the development of new structures and the remodel of existing structures which changes the appearance in the designated Downtown Business District.

Danville's Downtown Business District contains a mixture of historic buildings and architectural styles in a pedestrian friendly setting. Though considerable variation exists in the downtown with respect to architectural styles, the overall scale and character of the downtown respects the areas' nineteenth century origins. The different architectural styles that form a historical context for the downtown include:

- Gothic Revival (169 Front Street - Vecki House);
- Victorian (100 School Street - Shuey/Podva House);
- Vernacular (411 Hartz Avenue - McCauley House);
- Victorian Stick (205 Railroad Avenue - Danville Depot);
- Neoclassic Rowhouse (146 Diablo Road - (Elliot House);
- Queen Anne Cottage (500 Hartz Avenue - Eddie House);
- Traditional Commercial Storefronts (360, 370 and 376 Hartz Avenue);
- Craftsman/California Bungalow (402 and 404 Hartz Avenue - George Foster House); and
- Spanish Eclectic/Spanish Revival (345-349 Hartz Avenue, 201 Front Street, McDonald's Drug Store and Danville Presbyterian Church).

Chapter 3 - "Architectural Styles" of the Town's Design Guidelines for Heritage Resources includes a comprehensive description of these architectural styles. The Town's Survey of Historically Significant Resources identifies additional styles that transition from one era to another, including types or subsets of the Victorian era such as Italianate, Stick/Eastlake, and Colonial Revival.

For the thirteen (13) land use areas identified downtown, all development standards contained in section 32-45 must be applied in a manner which ensures that the design of new buildings is successful on a stand alone basis, while working in context with the buildings' surroundings, allowing for effective integration of the new building into the existing downtown fabric.

Retail and restaurant uses are required to be the primary ground-floor uses established in Areas 1, 2, 2A, 3 and 11, in order to promote the creation of a pedestrian friendly environment and to provide for retail continuity. Storefront design standards included in this section are intended to facilitate these objectives.

The following construction materials and detailing apply to all thirteen (13) land use areas set forth in Division 2.

a. *Project Design.*

1. Design of all buildings shall be consistent with these guidelines; corporate, chain or franchise designs are not permitted.

2. Use of a variety of traditional architectural styles and shapes is permitted. Designs may relate to historic elements seen within the area, but shall be also distinguishable as being newer than the Heritage Resources. Imitation, period pieces, or reproduction of historic styles, such as those seen in theme amusement parks, are not allowed.

3. Building detailing shall be incorporated into each of the four sides of the building and consistent with the building's dominant architectural style. Visible blank walls are not allowed. Walls shall be articulated through windows, signs, lighting, vertical landscaping, or other architectural detailing. Detailing shall be an integral part of the building design and used appropriately throughout.

4. Outdoor spaces defined or partially enclosed by buildings shall be designed to function as focal points, merchandise display area, and/ or gathering spaces for sitting and walking as appropriate to the site.

5. Exterior lighting shall be addressed as an integral part of building landscaping and design.

b. *Building Mass and Scale.*

1. Larger building facades shall be broken into smaller units to convey a sense of human scale along street frontages.

2. New buildings shall step down in height as they approach a Heritage Resource building, Hartz Avenue and street corners.

3. New buildings shall observe the height limits as specified within the development requirements of each of the applicable land use areas.

c. *Building Materials and Colors.*

1. The use of the highest quality materials for building facades consistent with the architectural style of the building shall be provided.

2. Materials considered appropriate when used consistent with the architectural-style of the building include:

(a) Full and half brick;

(b) Wood siding;

(c) Natural/authentic masonry;

(d) Stucco;

(e) Slate;

(f) Shingles/ shakes;

(g) Wood windows and storefront doors;

(h) Metal and wood trellis;

(i) Tile accents;

(j) Metal accents; or (k) Glass block accents.

3. Use of materials designed to conserve natural resources and reduce negative impacts on the environment is encouraged.

4. Materials not allowed include:

(a) Windows with internal muntin's or simulated divided light;

(b) Lava rock;

(c) Synthetic/cultured stone;

(d) Metal siding;

(e) Corrugated metal;

(f) Plastic;

(g) Concrete block units; or

(h) Fiberglass panels.

5. Building colors shall be appropriate to the architectural style of the building and work in context with surrounding buildings.

6. Paint colors shall complement the colors of facade materials such as brick, masonry, etc.

d. *Retail Frontages.*

1. Storefronts shall be spaced in a repeated rhythm along the sidewalk to maintain pedestrian continuity and interest. Wall space between storefront windows shall be minimized.

2. Storefront bases shall generally be no more than twenty-four (24) inches high from the sidewalk.

3. Storefront base shall be of a material that complements the upper facade material.

4. Use of accent lighting to highlight merchandise displays in storefront windows is encouraged.

5. Facades with multiple storefronts may vary base material, entry location or awning design.

e. *Entries.*

1. Building and storefront entries shall be at sidewalk level.

2. In corner locations, the primary entrance shall be on the major street, or diagonally at the corner.

3. Entry doors to the street level shall be a minimum of fifty percent (50%) glass.

4. Where appropriate in design, storefront entries may project or be recessed for added relief on building facades.

5. Rear and side entries shall be compatible with front entries unless such entries are visually inaccessible or an alternate design is required for building code purposes.

f. *Windows.*

1. Windows from the building wall shall be articulated through use of bay windows, recessed windows, trim, or other design element.

2. Windows shall use clear or lightly tinted glass. Use of dark or reflective glass is prohibited.

3. Windows above the first floor shall be placed in a regular pattern or patterns, and shall be smaller than ground floor windows.

4. Projecting window sills shall be incorporated into the project design.

5. Transom windows are encouraged in new construction where appropriate to the architectural style of the building.

6. Storefront display windows shall have a vertical, rectangular orientation in a manner that is compatible with the character of downtown. Vast plate glass panels shall be avoided. Use of true divided light windows are encouraged. Allocate a minimum of sixty percent (60%) of the storefront to display windows.

7. Storefront windows shall be developed and maintained as uncovered and visible windows. Interior window coverings shall not be used in street level windows for retail spaces. Use of display lighting is encouraged.

8. Fully operable display windows are encouraged where appropriate.

g. *Roofs.*

1. Roofs shall be an integral part of the building design that complements the structure in scale, height and mass. Roof elements shall be similarly treated and architecturally integrated on all building elevations. The combination of incompatible roof elements is not permitted.

2. All roof-mounted mechanical and electrical equipment shall be fully integrated into the overall roof design so as to be totally screened from off-site view.

3. Decorative features such as accent materials, patterns, cornices, brackets, finials and roofline shapes are encouraged.

4. Materials. The following roof materials are considered to be appropriate when installed per Chapter 15 of the California Building Code:

(a) Wood shingles or shakes;

(b) Concrete tile;

(c) Clay tile;

(d) Slate;

(e) Composition roof materials compatible with the character of downtown; or

(f) Metal roofing, where used only as an accent element.

5. The following roof designs are considered appropriate.

(a) Hip and/or gable roofs; or

(b) Flat/minimum pitch roofs are permitted provided that no portion of the roof is visible from off-site and with sufficient detailing such as use of cornices or parapets. Further, all ducts, meters, air conditioning and/or any other mechanical equipment shall be effectively screened from view.

6. The following roof styles and designs are not permitted:

(a) Mansard;

(b) Shed;

(c) Built up or flat/minimum pitch roofs such that they may be viewed from off-site; or

(d) Metal roofs, unless used as an accent and not the entire roof.

h. *Building Projections and Sidewalk Coverings.*

1. Improvements may encroach into the public right-of-way only if an encroachment permit is submitted and approved must be approved as a part of a development plan permit.

2. Building projections shall be designed to relate to or complement the architectural style of the building and not shall block visibility of either the storefront or the architectural features of the facade.

3. Projections shall be designed so that upon removal, the architectural character and integrity of the facade shall remain intact.

4. All projections shall maintain a minimum vertical clearance of eight (8) feet measured from the corresponding pedestrian area directly below the projection.

5. Where posts or columns are proposed to support building projections, posts or columns shall be spaced to reinforce, rather than interfere with, facade or storefront elements. Use of climbing flowering vines or other landscape elements are encouraged for use with such posts or columns.

i. *Site Design.*

1. All outdoor storage and refuse collection areas shall be enclosed with self-closing and self-latching gates and shall be screened so that they are not visible from access streets and adjacent properties.

2. Outdoor storage of all company owned and operated motor vehicles, except for passenger vehicles, shall be reasonably screened from view from access streets, freeways and adjacent properties.

3. Storage or refuse collection is not permitted within front yard setback areas.

(Ord. 2005-07, § 2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.22.a Outdoor Gathering Spaces.

The Town encourages the creation of outdoor gathering spaces, such as plazas and courtyards, as part of the approval of new land use or development entitlements, and provides the following incentive for their creation:

a. For every whole 100 square feet of outdoor gathering space provided as part of the approval of a new land use or development entitlement, the Town will give a credit towards the development's off-site parking in-lieu fee equal to the off-site parking in-lieu fee cost for one retail parking space.

(Ord. 2017-07, § 2)

32-45.23 **Landscaping Development Standards.**

The following landscaping development standards apply in the Downtown Business District:

a. *General.* Each site shall have landscape elements, such as planting areas, window boxes, containers, trellis, and/or vertical landscaping. All landscaping shall be provided with an automatic irrigation system. All trees shall be minimum fifteen (15) gallon size. Shrubs shall be minimum five (5) gallon size. Shrubs used as ground cover shall be minimum one (1) gallon size. All landscaped areas not covered by shrubs and trees shall be planted with live ground cover or covered with mulch. All unpaved, non-work areas (excluding vacant lots) shall be landscaped.

b. *Hardscape.* All sidewalks, decks and patios shall be constructed using concrete, exposed aggregate, stamped concrete, bricks, brick pavers, wood decking, tile or terrazzo. The use of asphalt pavement is only permitted in driveway and parking areas.

c. *Perimeter Areas.* Perimeter landscaping shall be provided along all property lines where buildings are set back from the lot line. A minimum of one (1) tree per thirty (30) lineal feet of property line shall be planted in the perimeter area in addition to required ground cover and shrubs. Trees may be clustered or uniformly spaced.

d. *Frontage Landscaping.* Frontage landscaping shall conform to the adopted Streetscape Beautification Guidelines.

e. *Use of Landscaping.* Landscaping shall be used in a complementary fashion, and should not obscure architectural elements on a building.

f. *Plant type.* Use of drought tolerant plants is encouraged.

g. *Parking Areas.*

1. A planter or landscaped strip at least five (5) feet in width shall be provided adjacent to street rights-of-way. Automobiles should be screened from off-site views through use of a combination of planting, berming and walls.

2. Driveway and parking areas shall be separated from adjacent landscaping by a wall or curb at least four (4) inches high, but no more than three (3) feet six (6) inches in height.

3. Minimum of one (1) tree for each five (5) parking stalls shall be installed within fingers or medians that project into the paved area.

h. *Undeveloped Areas.* Interim landscaping, including erosion control measures, shall be provided on all graded sites that will remain vacant prior to building construction. Undeveloped areas shall be maintained in a weed-free condition.

(Ord. 2005-07, § 2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.24 **Lot Area and Width.**

The minimum lot area shall be thirty-five hundred (3,500) square feet, with a minimum average lot width of thirty-five (35) feet except where a smaller lot existed prior to the adoption of this chapter.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.25 **Outdoor Display of Merchandise Criteria.**

a. A minimum of five (5) foot width pedestrian access, as a public and/ or private access way, shall be maintained across storefronts and be kept clear of merchandise to allow for adequate public access. The five (5) foot minimum-width access shall meet all applicable accessibility standards for pathways, as defined by the current building code.

b. A minimum five (5) foot wide access shall be provided between the public entry to the storefront and the public sidewalk or on-site parking area.

c. No merchandise shall be placed in a manner that impedes emergency personnel access.

d. Merchandise may be placed within the public right-of-way if the criteria of 3a., 3b. and 3c. above are met, provided an encroachment permit is issued by the Town of Danville prior to placement.

e. Merchandise shall not impede access to surrounding businesses.

f. The display area for the merchandise shall be limited to the area immediately in front of the subject tenant space.

g. Merchandise displayed shall belong to the retailer using the subject building's ground floor space, and shall solely consist of retail goods normally sold within that store. Subleasing of the area of authorized outdoor display is expressly prohibited.

h. The maximum height of merchandise shall not exceed eight (8) feet in height above storefront entry level.

i. Outdoor display of automobiles is permitted subject to approval of a Land Use Permit.

j. Merchandise displayed outside storefronts shall be brought indoors overnight.

k. Merchandise shall be, at a minimum, rotated seasonally, at a minimum.

l. Sign requirements as contained within the Town of Danville Signs and Outdoor Advertising Ordinance (Chapter 32-98) shall apply to all outdoor display of merchandise contained within this chapter.

m. This section shall apply to retail businesses only.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.25.a Outdoor Seating.

a. Outdoor seating for food or beverage uses shall be contained within a fence or other enclosure which is architecturally compatible with the building and surroundings. Prior to occupying the outdoor seating, the operator shall submit a site plan and fencing plan for review and approval by the Town. For all new outdoor seating within Downtown Business District Areas 1, 2, 2A, 3 and 11, the Town's off-site parking in-lieu fee requirements shall apply.

b. For all existing restaurants with outdoor seating Land Use Permits approved by the Town prior to November 16, 2017, the outdoor seating may be modified to comply with these development standards and the parking requirements established under Section 32-45.34., and may be subject to the payment of the Town's off-site parking in-lieu fees.

c. *Use Standards.*

1. Any umbrellas used in conjunction with the outdoor seating area shall be commercial grade, shall be located so as to be fully contained within the exterior seating area, and shall not contain any product advertising or identification except the name of the business. The business name shall be printed on the umbrella with a maximum letter height of four inches and shall be placed only on the lowest vertical flap area of the umbrellas.

2. The tables and chairs used for exterior seating shall be consistent in type and design.

3. Exterior lighting associated with the subject restaurant use shall be low glare, shall be directed onsite, and shall not shine into adjacent properties or cause a nuisance for passing motorists or pedestrians. Only minimal safety lighting shall be allowed after the authorized hours of operation.

4. The outdoor seating area operator, in conjunction with the property owner of the subject commercial property, shall be responsible for keeping the exterior area containing and adjoining the exterior seating authorized by this permit clear of litter and debris. This responsibility shall include the obligation to clean the exterior seating area, if deemed necessary by the Planning Division.

5. Modification to the shape or size of the exterior seating area, beyond what was authorized at the initial occupancy of the seating area, shall not occur without authorization from the Planning Division.

6. Music (including any scheduled live performances), shall be kept at noise levels so as to not be clearly audible beyond 100 feet of the boundaries of the subject property, unless authorized by the Planning Division.

7. The use of loud speakers to make announcements to customers is prohibited.

8. The number of outdoor seats shall not exceed the permitted occupancy.

(Ord. 2017-07, § 2)

32-45.26 **General Requirements.**

a. Grading within the Downtown Business District is subject to the approval of the Chief of Planning and the Chief Building Official

and is allowed by permit only if a Development Plan has first been approved by the Town.

b. No excavation or grading shall be done except in connection with the construction of an improvement. Upon completion thereof, exposed openings shall be backfilled and disturbed ground shall be finished and graded. Where not built upon, all sites shall be landscaped consistent with the intent of this chapter.

c. All access plans, necessary right-of-way dedications and improvements shall comply with the requirements and approval of the City Engineer.

d. Before a change in business or use, the new business or use is required to obtain a certificate of zoning compliance from the Chief of Planning.

e. Before accepting a Development Plan application, the Chief of Planning or the Heritage Resource Commission shall determine the historical significance of the site.

f. All businesses shall have conspicuously posted a copy of the Town-issued Certificate of Occupancy.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.27 Administrative Relief.

a. Administrative relief from the provisions of the architectural and landscaping development standards of this Division 3 may be granted by the Chief of Planning provided that the following findings can be made:

1. That the intent of this chapter will be preserved; and

2. The applicant/developer can demonstrate the regulations of this chapter are inapplicable to the characteristics of the business district area in which the project is located.

b. The variance procedure set forth in subsection 32-45.47 applies to changes of a requirement of lot area and width, building height and setbacks.

(Ord. 2005-07, §2; Ord. 2008-08, § 2; Ord. 2013-05; Ord. 2017-07, § 2)

Division 4

PARKING STANDARDS

32-45.30 General Requirements for On-site Parking.

a. *Applicability to Existing Land Uses.* A land use existing in the Downtown Business District as of November 21,1988, or for which a building permit has been issued, is not subject to the requirements of this chapter until there is a change of use/ business or expansion of the structure, provided that on-site parking facilities now required or serving such land uses are not reduced below these requirements in the future. A project already approved as of November 21, 1988 shall comply with the original conditions of approval until a new project is submitted and approved for the site. Parking required by the original conditions of approval may be removed with approval of the Planning Commission provided the owner demonstrates that removal is consistent with the intent and purpose of this chapter.

b. *Parking Computation Methodologies.* Where the computation of required off-site parking spaces results in a fractional number, the resulting computation will be rounded to one-tenth (1/10) of a parking space. Where the computation of required on-site parking spaces results in a fractional number, only the fraction of one-half (1/2) or more shall be counted as one (1) parking space. When performing computations, rounding shall not be performed until the final result is reached.

c. *Joint Use Parking Agreements.* A joint-use parking agreement may be used when the Town determines that all of the required parking cannot be met on-site or in the Town's municipal parking lots. A joint-use parking agreement may be considered when the joint-use parking is to be provided on a nearby or adjacent lot but the distance from the adjacent parking to the proposed facility shall not be greater than one hundred fifty (150) feet. Such parking shall be specifically designated for the uses to which it is assigned. The same parking spaces may not be counted toward the required parking for more than one (1) use at a time.

The applicant shall provide evidence to the satisfaction of the Chief of Planning that the joint-use parking agreement provides for a specified number of parking stalls, is recorded to run with the property and is enforceable for a specified term.

d. *Off-Site Parking Credit.* "Off-Site Parking Credit" means that a portion of the required parking spaces is provided on-site and/or a portion is provided in the municipal parking lot where the same parking spaces are assigned to more than one (1) use at one (1) time. The Off-site Parking Credit is required in Areas 1, 2, 2A, 3 and 11.

Because Areas 1, 2, 2A, 3 and 11 are developed with high density retail and restaurant uses and the availability of on-site parking is limited, a parking reduction of 20 percent will apply when it is determined that the off-site parking credit will be used. This parking reduction will only be allowed when a minimum of twenty-five percent (25%) of the required parking is purchased in the off-site public lot.

e. *In Lieu Fees.* Those properties and uses required to provide parking in off-site municipal parking lots pursuant to Section 32-45.31 of this Code shall pay an in lieu parking fee for each space required. The number of parking spaces used to calculate the required in lieu payment shall be based on the applicable standards of this Code. The amount of the in lieu parking fee per space shall be as set forth by resolution of the Town Council, in effect at the time the applicant 1) completes an application for a building permit or 2) initiates the land use activity that creates the demand for additional municipal parking, whichever comes first. In calculating the in lieu parking fee, if

a credit to the property owner for Assessment District 73/74 (i.e., the Clocktower Municipal Parking Lot) is applicable, the credit shall not exceed the amount owed to the Town by way of the new project. Any in lieu parking fees due to Lhe Town shall be paid at issuance of a building permit or exercise of a land use entitlement creating the demand for additional parking, whichever occurs first.

(Ord. 2009-02, § 2)

f. *Tandem Parking.* Tandem parking is permitted only when the parking is used to meet the needs of employees or valet service is being provided. The property for which tandem parking is permitted must be posted or designated as such and the property owner must record a deed restriction.

g. *Compact Parking.* Up to thirty percent (30%) of the required parking may be provided in compact stalls. The compact stall dimension shall measure a minimum of eight (8) feet by sixteen (16) feet.

h. *Historic Preservation Parking Relief.* A reduction in the total number of parking spaces required under this chapter for a property designated a Heritage Resource shall be permitted according to the determination made by the Town, as provided by Town approval of historic preservation incentives for the Heritage Resource pursuant to subsection 32-72.1 of the Municipal Code.

i. Assessment District 73/74. Contra Costa County. Any parcel of land located within the existing Municipal Lot Assessment District (AD 73/74) shall receive credit for participation in that district by one (1) of the following:

1. If the parcel is within the one hundred percent (100%)-area of benefit (i.e., is a property with a shared boundary with the Clocktower equivalent to the parking demand that would be created with 100% floor area ratio coverage, after o observance of the requisite minimum front yard setback for retail.

2. If the parcel is located outside of the one hundred percent (100%) area of benefit (i.e., is not a property with a shared boundary with the Clocktower Municipal Parking Lot), then it shall receive full credit for the actual on-site spaces plus full credit for the actual dollar amount paid into AD 73/74 against payment of any in lieu fees.

j. *Loading and Deliveries.* Deliveries are encouraged in the Downtown Business District between the hours of 6:00 a.m. and 11:00 a.m. due to the commercial density of the area and the disruptive nature of loading activities at later times. Each Development Plan shall be required to include provisions for off-site loading such as a designated area, parking management plan or provisions for the use of a required parking stall to be used for loading during off-business hours. Handicapped parking stalls may be used for deliveries during hours in which the business being served is not open to the public.

k. Unless otherwise approved, parking areas may not be used for merchandise sales, storage, repair work, dismantling or servicing of any kind.

(Ord. 2005-07, §2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.31 Old Town Parking Area.

The special parking requirements of this chapter apply in Area 1, Area 2, Area 2A, Area 3, and Area 11 of the Downtown Business District.

a. *Applicability.* Existing on-site parking shall be allowed until one of the following occurs, at which time the property owner shall comply with the requirements of subsection b. below.

1. The property in question is completely redeveloped with new structures and new uses/businesses; or

2. A change of use/business is proposed which will intensify the parking demand; or

3. Where an addition to an existing structure is proposed and the added square footage is both less than 50% of the existing square footage of the structure and all building additions since November 21,1988 are cumulatively less than 50% of the original building size, the new square footage added must comply with the new parking standards;

Where the addition to an existing structure is proposed and the added square footage is greater than fifty percent (50%) of the existing square footage of the structure or the added square footage takes the structure cumulatively, since November 21, 1988, beyond 50% of the original building size, the entire square footage of the building, both existing and new, shall meet the parking requirements of this chapter.

b. *Parking District Designations and Requirements.*

1. Parking District A. The boundaries of Parking District A are contiguous with the boundaries of Area 1 (Old Town Retail). Proposed development within Parking District A shall conform to the following standards and those standards in subsection 32-45.32 and 32-45.34.

(a) A minimum of fifty percent (50%) of the required parking shall be provided off-site in municipal parking lots.

(b) On-site parking may be provided underground and/or at grade as long as it is adequately screened. At grade parking located along Hartz Avenue shall be placed to the rear of buildings or substantially set back from applicable street frontages to substantially screen and buffer the parking through the use of berming, walls and/or landscaping that screen parked vehicles.

(c) Curb cuts shall be combined and minimized.

2. Parking District B. The boundaries of Parking District B are contiguous with the boundaries of Area 2 (Old Town Retail Transition), Area 2A (Old Town Retail) and Area 3 (Old Town Mixed Use). Proposed development within Parking District B shall conform to the following standards and those standards in subsections 32-45.32 and 32-45.34.

(a) Up to twenty-five percent (25%) of the required parking shall be provided off-site in municipal parking lots.

(b) Surface on-site parking is allowed.

3. Parking District C. The boundaries of Parking District C are contiguous with the boundaries of Area 11 (Special Opportunity District) as designated on Figure 6 of the 2030 General Plan. Proposed development within Parking District C shall conform to the following standards and those standards in subsections 32-45.32 and 32-45.34.

(a) A minimum of fifty percent (50%) of the required parking shall be provided on-site.

(b) Surface on-site parking is allowed.

(Ord. 2005-07, §2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.32 Design and Layout.

a. Dimensions of the required on-site parking spaces and driveways shall have the following dimensions:

Parking Angle (Degrees)	*Stall Width*	*Curb Length*	*Stall Depth*	*Driveway Width*
0	8'0"	22'0"	8'0"	12'0"
30	9'0"	18'0"	17'4"	11'0"
45	9'0"	12'9"	19'10"	13'0"
60	9'0"	10'5"	21'0"	18'0"
90	9'0"	9'0"	19'0"	24'0"

b. All on-site parking facilities shall be designated with appropriate maneuvering areas and means of vehicular access to the main and auxiliary streets. If the parking area does not abut a street, there shall be an access driveway not less than twelve (12) feet in width for one-way traffic and not less than twenty (20) feet for two-way traffic leading to the parking area in such a manner as to secure the most appropriate development of the property in question.

c. Pavement markings shall indicate the direction of traffic flow, stall width and length and any other directional signage and marking required.

d. Exterior wall-mounted lighting and lighting from parking lot light standards shall be at the minimum light intensity necessary to provide adequate lighting for safety and security purposes. Project light fixtures shall be of a design that generally screens the view of the light source and provides down-directed lighting.

e. Access to public parking areas and curb cuts shall be so located as to insure an efficient and safe traffic flow into the parking area and the public street.

f. Parking stall depth may be decreased two (2) feet in length when a bumper overhang is used. Where a parking stall overhang is utilized, appropriate to the depth and/or configuration of the affected landscape area shall be made to provide for a functional landscape area.

g. A minimum of six (6) foot high solid fence or masonry wall of a design acceptable to the Chief of Planning shall be provided along the edge of any public parking area adjacent to residentially zoned property.

h. A barrier curb or wheel stop at least four (4) inches in height shall be provided adjacent to landscaping, near buildings or other non-parking areas.

i. Required on-site parking areas shall be surfaced with an asphaltic or Portland cement pavement or similar material so as to provide a durable and dustless surface. Areas shall be graded and drained to prevent the ponding of water.

j. If a driveway provides access to a parking area with a garage or carport having access from either or both sides, the driveway shall be a minimum of twenty-four (24) feet in width. The garage and carport spaces shall be at an angle of sixty (60) degrees or greater and shall be set back a minimum of four (4) feet on one (1) side only, thus providing a twenty-eight (28) foot separation between structures or obstructions to facilitate vehicular turning movements.

(Ord. 2005-07, §2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.33 Maintenance and Operation.

All required parking facilities shall be provided and maintained so long as the structure exists which the parking areas were designed to serve. On-site parking facilities may not be reduced in area, except when the reduction conforms to this chapter.

(Ord. 2005-07, §2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.34 Parking Requirements.

Where an off-street parking requirement is stated as a ratio of parking spaces to floor area, the floor area shall be construed to mean the gross floor area and shall include, above and beyond the area of the business operation(s), all common or shared conditioned space,

including, but not limited to, hallways, lobby areas, break rooms, and restrooms. Gross floor area shall also include the ground floor area devoted to elevators, elevator mechanical rooms and for interior stairwells.

Parking spaces shall be provided for each land use as follows:

a. *Auditoriums and Assembly Halls:*

1. With fixed seats: one (1) space per four (4) fixed seats;

2. Without fixed seats: one (1) space per forty (40) square feet of gross floor area;

b. *Bars, nightclub, lounge: One (1) space per one hundred (100) gross square feet;*

c. *Blended Use:* For a blended use in which at least 75 percent of the use is retail, the parking demand for the entire tenant space shall be calculated as a retail use. For any other blended use or where a tenant space is occupied by two (2) or more uses which fall into different use classifications, the calculated parking demand shall be the sum of the various individual uses, computed separately;

d. *Bowling Alleys:* Five (5) spaces for each alley, plus one (1) space for each two (2) concurrently present employees;

e. *Churches:* One (1) space per three (3) seats: (eighteen (18) linear inches of bench is considered one (1) fixed seat);

f. *Hospitals:* One (1) space for each two (2) beds;

g. *Hotels and Motels:* One (1) space per sleeping unit;

h. *Medical and Dental Offices:* One (1)) space per examining room, dental chair or similar use area or five (5) spaces per concurrently present medical professional, whichever is greater;

i. *Mortuaries:* One (1) space per fifty (50) square feet of gross floor areas in the chapel areas;

j. *Multi-family Residential:* Each apartment and dwelling unit shall have on-site automobile parking space on the same lot or parcel as follows:

1. Studio dwelling unit: one (1) space;

2. One (1) bedroom dwelling unit: one and one-half (1-1 / 2) spaces;

3. Two (2) or more bedroom units: two (2) spaces, plus one-quarter (1/4) space per each dwelling unit for guest parking, which may include available curb parking along the property's street frontage;

4. Spaces shall not be located within the side yard or setback areas of the principal structure;

5. In no event may there be less than one (1) covered space per dwelling unit;

k. *Nursing Homes, Sanitariums, Convalescent Homes, Rest Homes:* One (1) space for each three (3) beds;

l. *Office, Service and Business and Professional, other than Medical and Dental Offices:* One (1) space per two hundred twenty-five (225) square feet of gross floor area;

m. *Outdoor seating:* may be provided according to the following formula based on an approved interior plan:

1. Up to twenty-five percent (25%) of square footage of the gross interior floor area of the restaurant or tasting room use (including kitchen, storage, and similar nonpublic areas): no additional spaces;

2. Twenty-six (26%) or more percent of the square footage of the gross interior floor area of the restaurant or tasting room use (including kitchen, storage, and similar non-public areas): parking requirements same as interior food or beverage use;

n. *Personal Service:* Two (2) spaces per station;

o. *Restaurants:*

1. Food to go restaurants: One (1) space per two hundred fifty (250) square feet;

2. Full service restaurants: One (1) space per one hundred (100) gross square feet;

3. Limited service restaurant: One (1) space per two-hundred (200) square feet;

p. *Retail Stores, except as otherwise specified here:* One (1) space per two hundred fifty (250) square feet of gross floor area;

q. *Retail Stores Which Handle Only Bulky Merchandise, such as Furniture, Household Appliances and Automobiles:* One space per five hundred (500) square feet of gross floor area;

r. *Rooming and Lodging Houses:* One (1) space per each bedroom;

s. *Service Commercial, except as otherwise specified here:* One (1) space per two hundred fifty (250) square feet of gross floor area;

t. *Service Commercial, Repair Shops, Wholesale Establishments and Retail and Wholesale Establishments where business is conducted primarily outside of buildings:* One (1) space per five hundred (500) square feet of gross floor area;

u. *Tasting room:* One (1) space per one hundred (100) gross square feet;

v. *Warehouses and Other Storage Buildings:* One (1) space per one thousand (1,000) square feet of gross floor area.

(Ord. 2005-07, §2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.35 Administrative Relief and Parking Reductions.

Administrative relief from the terms of this Division may be granted by the Chief of Planning upon application and approval of an Administrative Permit if strict application of the requirements of this Division are found to be inappropriate and measures approved by the Chief of Planning are incorporated into the project which preserve the intent of this Division.

(Ord. 2005-07, §2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.36 Emergency Shelters.

a. *Purpose.* The following provisions, in conformance with state law, establish standards for the Town review of emergency shelters. For the purposes of this subsection, an emergency shelter shall be considered to have the same meaning as defined in Section 50801 of the California State Health and Safety Code and does not refer to emergency shelters set up for disaster relief. The following requirements are to implement the programs in the Danville Housing Element, to ensure compliance with Section 65583 of the Government Code, and to meet the emergency shelter needs of the community.

b. *Applicability.* Emergency shelters shall be permitted in accordance with the land use regulations of the DBD Area 3 - Old Town Mixed Use district and shall comply with the following standards:

1. *Property development standards.* The shelter shall conform to all property development standards of the zoning district.

2. *Location.* No emergency shelter shall be located within three hundred (300) feet of another emergency shelter.

3. *Transit accessibility.* Unless the emergency shelter facility is located within one-half mile of an existing bus route station, ongoing alternate means of transportation shall be provided by the facility operators, such as provision of a shuttle bus service to and from the bus route station.

4. *Management.* The shelter shall have twenty-four (24)-hour, professional on-site management.

5. *Security.* The shelter shall have on-site security and/ or security cameras.

6. *Lighting.* The shelter shall have adequate outdoor lighting for security purposes.

7. *Length of stay.* The shelter shall be available to residents for thirty (30) days. Extensions up to a total of one hundred eighty (180) days may be provided by the on-site manager if no alternative housing is available.

8. *Maximum number of persons/beds.* The shelter shall contain a maximum number of twelve (12) beds and shall serve no more than twelve (12) clients.

9. *Waiting and intake areas.* The shelter shall have a private area to receive clients.

10. *On-site parking.* The shelter shall provide for thirty-five-hundredths (0.35) parking space per individual bed plus one (1) additional space per employee.

11. *Common facilities.* The shelter may provide one (1) or more of the following specific facilities for the exclusive use of the residents and staff:

(a) Central cooking and dining room.

(b) Recreation room.

(c) Counseling center.

(d) Child-care facility.

(e) Laundry facility.

(f) Other support services.

(Ord. 2013-05; Ord. 2017-07, § 2)

32-45.37—32-45.39 Reserved.

Division 5

DEVELOPMENT PLAN REVIEW PROCEDURES

32-45.40 Development Plan Requirement.

All land within the Downtown Business District is designated a P-l Planned Unit District and may be used as allowed and regulated in this chapter. No development is permitted in the Downtown Business District unless a Development Plan has been approved by the Chief of Planning or the Planning Commission.

When a development plan application involves a single property owner with parcels located in more than one (1) land use area and/ or parking district, the Planning Commission, at its discretion, may combine the requirements of the land use areas and/ or parking districts

in the interest of creating a cohesive, integrated project.

(Ord. 2005-07, §2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.41 Application.

A request for development plan approval shall be signed by the property owner and by the owner of any option to purchase the property or portion thereof. Except as waived in writing by the Chief of Planning, the application shall consist of ten (10) copies of each of the following:

a. A site plan, drawn to scale, indicating:

1. Proposed use(s) of all land;

2. Existing natural land features, trees and topography;

3. Circulation plan for all vehicular and pedestrian ways including parking areas;

4. Location and dimensions of the property and all existing structures;

5. Preliminary grading for the development; and

6. Project phasing plan if more than one (1) phase is proposed.

b. A recent preliminary title report.

c. A preliminary utility plan including provisions for storm drainage, sewage disposal and public utilities.

d. Preliminary architectural plans including floor plans and all elevations.

e. Preliminary landscape plan.

f. Additional drawings or information as may be required by the Chief of Planning.

(Ord. 2005-07, §2; Ord. 2013-05; Ord. No. 2017-07, § 2)

32-45.42 Approval Procedure.

A development plan application shall be submitted to the Planning Commission and/ or the Chief of Planning, as the case may be, for approval. The Chief of Planning or Planning Commission's decision may be appealed within ten (10) calendar days or it becomes final.

(Ord. 2005-07, §2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.43 Findings.

When approving and adopting the development plan application, the Chief of Planning and/ or Planning Commission, as the case may be, shall be satisfied regarding all of the following:

a. The applicant intends to obtain permits for construction within eighteen (18) months from the effective date of plan approval;

b. The proposed development plan is consistent with the General Plan;

c. In the case of residential development, the proposed development will constitute a residential environment of sustained desirability and stability, and will be in harmony with the character of the surrounding neighborhood and community;

d. In the case of commercial and office development, the proposed development is needed at the proposed location to provide adequate facilities of the type proposed, and that traffic congestion will not likely be created by the proposed center or will be obviated by:

1. Presently projected improvements;

2. Proper entrances and exits;

3. Internal provisions for traffic and parking; and

4. That the development will be an attractive and efficient center which will fit harmoniously into and will have no adverse effects upon the adjacent or surrounding development.

(Ord. 2005-07, §2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.44 Termination.

a. *Procedure.* Development Plan or Land Use Permit approval expires thirty-six (36) months after the Chief of Planning or the Planning Commission's approval for new development or an addition to an existing structure, as the case may be, if a building permit has not been issued and construction commenced. Development Plan or Land Use Permit approval expires thirty (30) months after the Chief of Planning or the Planning Commission's approval, as the case may be, for new businesses, established in existing structures if a building permit has not been issued, construction commenced and/ or the business established.

(Ord. 2009-02, § 2; Ord. 2013-05)

b. *Time Limit Exception.* The time limitation in this chapter applies only to the first phase of a phased development plan; it does not

apply after approval and implementation of the first phase.

c. *Extensions.* Upon a showing of good cause, the Chief of Planning or the Planning Commission, as the case may be, may grant not more than two (2) extensions of the time limitations in subsection a. above, each for no more than one (1) year.

(Ord. 2005-07, §2; Ord. 2017-07, § 2)

32-45.45 Plan Changes or Amendments.

A change in the approved Development Plan and its conditions of approval may be approved by the Planning Commission. Minor changes may be approved by the Chief of Planning.

(Ord. 2005-07, §2; Ord. 2013-05; Ord. 2017-07, § 2)

32-45.46 Conditional Use Permit.

Application. Any application for Development Plan approval may be accompanied by an application for a Land Use Permit as required by Divisions 2, 3 and 4 of this chapter. A separate application for a Land Use Permit may be submitted for review and approval by the Chief of Planning consistent with the intent of this chapter, and may, at the discretion of the Chief of Planning, be referred to the Planning Commission for disposition.

(Ord. 2005-07, §2; Ord. 2013-05; Ord. No. 2017-07, § 2)

32-45.47 Variance.

a. *Granting Procedure.* A variance to modify a requirement of this chapter may be granted in accordance with the procedures and standards of the Danville Ordinance Code, subsection 32-4 and Government Code Section 65906.

b. Special Uses. Land Use Permits for special uses as deemed appropriate by the Chief of Planning and/or Planning Commission and Variance Permits to modify the provisions contained in Divisions 2, 3, 4, and 5 of this chapter may be granted after application in accordance with Section 32-4 of the Town of Danville Municipal Code.

(Ord. 2005-07, §2; Ord. 2013-05; Ord. 2017-07, § 2)

32-48—32-50 RESERVED.

32-51 O-1 LIMITED OFFICE DISTRICT.

32-51.1 General.

a. *General Provisions.* All land within an O-1 limited office district may be used for any of the following uses, under the following regulations set forth in this section.

32-51.2 Uses.

a. *Uses Permitted*. The following uses are permitted provided that no merchandise is stored, handled, displayed or sold on the premises:

1. Professional offices such as those pertaining to, but not limited to, the practice of law, architecture, dentistry, medicine, engineering and accounting;

2. Administrative, executive and editorial offices;

3. Business offices for insurance, real estate and investment brokers or representatives.

b. *Uses Requiring Land Use Permit*. In the O-1 district the following uses are permitted upon the issuance of a land use permit:

1. Hospitals, eleemosynary and philanthropic institutions, convalescent homes, and boarding homes;

2. Churches, religious institutions, and parochial and private schools, including nursery schools;

3. Community buildings, clubs, and activities of a quasi-public, social, fraternal or recreational character, such as golf, tennis and swimming clubs; veterans and fraternal organizations not organized for monetary profit;

4. Publicly owned buildings and structures, except as provided in Sections 32-1 to 32-20.

5. Studios and galleries for arts and crafts, music and dance, and photography;

6. Commercial radio and television receiving and transmitting facilities; broadcasting studios or business offices; home cable-vision facilities, including repair shops, storage areas, and equipment parking space necessary for operation and maintenance of the system;

7. Drug and prescription sales accessory to a medical office or clinic providing such use is definitely incidental to the primary use and is not visible from the street;

8. Animal hospital.

32-51.3 Lots.

a. *Lot Area.* No building or structure permitted in the O-1 district shall be erected or placed on a lot having less than fifteen thousand (15,000) square feet.

b. *Lot Width.* No building or structure permitted in the O-1 district shall be erected or placed on a lot having less than one hundred (100') feet in average width.

c. *Lot Depth.* No building or structure permitted in the O-1 district shall be erected or placed on a lot having less than ninety (90') feet in depth.

d. *Lot Coverage.* No buildings or structures permitted in the O-1 district shall cover more than thirty-five percent (35%) of the lot area.

32-51.4 Building Height.

a. *Maximum*. No building or structure permitted in the O-1 district shall exceed two and one-half (2 1/2) stories or thirty-five (35') feet in height.

32-51.5 Yards.

a. *Yard; Side*. There shall be an aggregate side yard width of at least fifteen (15') feet with no single side yard being less than five (5') feet in width, except that when a side yard abuts a residential land use district, it shall then have a minimum width of fifteen (15') feet with a minimum of five (5') foot width on the other side.

b. *Yard; Setback.* There shall be a setback (front yard) of at least twenty (20') feet for any building or structure in the O-1 district; on corner lots, the principal frontage of the lot shall have a setback of at least twenty (20') feet and the other setback shall be at least fifteen (15') feet.

c. *Yard; Rear.* Rear yard provisions for the O-1 district shall be the same as those for the R-6 district (subsection 3222,6).

32-51.6 Off-Street Parking.

a. *Off-street Parking; Space Requirements*. One automobile storage space shall be provided on the same lot or parcel for each two hundred (200) square feet of floor area of building, except that for medical and dental offices, a minimum of five (5) automobile storage spaces shall be provided on the same lot or parcel for each full-time doctor.

32-51.7 Building Size.

a. *Building Size; Gross Floor Area.* No building in the O-1 district shall have a gross floor area exceeding fifteen thousand (15,000) square feet.

32-51.8 Open Area.

a. *Open Area; General Provisions.* Twenty-five percent (25%) of the parcel shall not be occupied by buildings, structures, or pavement, but shall be landscaped. Seventy-five percent (75%) of this twenty-five percent (25%) (open area) shall be planted and maintained with growing plants.

32-51.9 Reserved.

32-51.10 Site Plan and Elevations.

a. *Scale Drawing*. All developments proposed on the O-1 district shall submit an application to gain approval of the site plan and elevations. The application shall include drawings drawn to scale indicating the same data required for the M-30 district except for the deletion of "Amount of studio, one (1) bedroom, two (2) bedroom or other size apartment units." Reference to "zoning administrator" is changed to Planning Commission in final item.

b. *Review and Approval of Application*. The Planning Commission shall review the site plan and elevations in public hearing under Chapter XXX, Development Procedures. In approving the application, the Planning Commission shall find that the application is consistent with the intent of the O-1 district and that it is compatible with other uses in the vicinity, both within and without the district. When any plan has been approved by the Planning Commission, it shall not thereafter be altered or changed except with the approval of the Planning Commission after reviewing the proposed alterations or changes. For the review the Planning Commission may schedule a public hearing under Chapter XXX, Development Procedures.

c. *Imposition of Conditions.* The Planning Commission may impose reasonable conditions and limitations in addition to the requirements listed in this chapter in order to further carry out and develop the intent and purpose of the O-1 district.

d. *Rezoning to O-1 District*. An applicant requesting a change in zoning to the 01 limited office district shall follow the procedure set forth for the M-30 district.

32-51.11 Land Use and Variance Permits.

a. *Granting*. Land use permits for the special uses enumerated in subsection 32-51.2b. and variance permits contained in subsection 32-51.3a through subsection 32-51.8 may be granted in accordance with Section 32-3.

32-52—32-55 RESERVED.

32-56 G-1 INTERCHANGE TRANSITIONAL DISTRICT.

32-56.1 General.

a. *General Provisions.* All land within the district may be used for any of the following uses, under the following regulations set forth in this section.

b. *Intent and Purpose; Designated*. Acquisition for highway interchanges have and may continue to leave parcels of land that may create difficult problems requiring solutions that provide the fullest possible agreement with the policies and goals of the General Plan. This interchange transitional district is provided in order to establish a range of land uses from which may be selected one (1) or several that would through the application of exceptional or extraordinary design, develop the greatest number of compatibility factors and minimize or eliminate detrimental land use relationships. It is intended that this district shall have application only within the area of highway interchanges and their approaches, and then only when the above is clearly evident and found to exist by the Planning Agency.

32-56.2 Uses.

a. *Use Permitted*. Uses permitted in this district shall be the same as those for the R-6 district (Section 32-22).

b. *Use Subject to Site Plan and Elevations Review.* Uses permitted, subject to site plan and elevations review by the Planning Commission, shall be as follows:

1. A home occupation;

2. Hospitals, eleemosynary and philanthropic institutions, and convalescent homes;

3. Churches, religious institutions, and parochial and private schools, including nursery schools;

4. Community buildings, clubs, and activities of a quasi-public social, fraternal or recreational character, such as golf, tennis and swimming clubs; veterans and fraternal organizations not organized for monetary profit;

5. Commercial nurseries;

6. Publicly-owned buildings and structures except as provided in Articles I-III of this chapter.

7. Commercial radio and television receiving and transmitting facilities, including broadcasting studios or business offices;

8. Hotel or motel;

9. Two family detached dwelling;

10. Professional offices such as those pertaining to, but not limited to, the practice of law, architecture, dentistry, medicine, engineering and accounting;

11. Administrative, executive and editorial offices;

12. Business offices for insurance, real estate and investment brokers or representatives.

c. *Use Requiring Land Use Permit*. In this district the following uses are permitted upon the issuance of a land use permit by the Planning Commission.

1. Service station when designed as an accessory to and an integrated part of a motel or hotel complex;

2. Restaurant, when designed as an accessory to and an integrated part of a motel or hotel complex;

3. Drug and prescription sales when designed as an accessory to and an integrated part of a medical office, hospital or clinic providing such use is not visible from any street;

4. Animal hospitals.

32-56.3 Lots.

a. *Area*. Lot area provisions for this district shall be the same as those for the R-10 district (Section 32-22).

b. *Width*. Lot width provisions for this district shall be the same as those for the R-12 district (Section 32-22).

c. *Coverage*. Lot coverage provisions for this district shall be the same as those for the O-1 district (subsection 32-51.3c.).

32-56.4 Building Height.

a. *Maximum*. No building or structure permitted in this district shall exceed twenty-five (25') feet in height.

32-56.5 Yards.

a. *Side Yard*. Side yard provisions for this district shall be the same as those for the O-1 district (subsection 32-51.5a.).

b. *Setback*. There shall be a setback (front yard) of at least twenty (20) feet for any building or structure in this district.

c. *Rear Yard*. Rear yard provisions for this district shall be the same as those for the R-6 district (Section 32-22).

32-56.6 Open Area.

a. *General Provisions*. Open area provisions for this district shall be the same as those for the O-1 district (subsection 31-51.8a.).

32-56.7 Signs.

a. *Restrictions*. One (1) sign per parcel having a maximum size of twenty-five (25) square feet shall be permitted. No sign shall rotate, flash, or animate. No sign shall exceed the height of the roof eave line or twenty-five (25') feet, whichever is the lowest. No sign shall face a residential land use district which may be abutting the subject parcel.

32-56.8 Site Plan and Elevations.

a. *Scale Drawing*. All developments proposed in this district, except as listed in subsection 32-56.2a. shall submit an application to gain approval of the site plan and elevations. The application shall include drawings drawn to scale indicating the data required for the M-8 district except for the deletion of "Amount of studio, one (1) bedroom, two (2) bedroom or other size apartment units." Reference to "zoning administrator" is changed to Planning Commission in final item.

b. *Review and Approval of Application*. The Planning Commission shall review the site plan and elevations applications as set forth for the M-8 district.

c. *Imposition of Conditions.* Reasonable conditions may be imposed as set forth for the M-8 district.

d. *Rezoning to the Interchange Transitional District*. An applicant requesting a change in zoning to interchange transitional district shall follow the procedure set forth for the M-8 district.

(Ord. 67-43, §1 (part), 1967; prior code §8158.5(n)(4)).

32-56.9 Site Plan, Land Use, and Variance Permit.

a. *Granting*. Site plan permits for the uses enumerated in subsection 32-56.2a. land use permits for the special uses enumerated in paragraph b. of that subsection and variance permits to modify the provisions of subsection 32-56.3a. through subsection 32-56.7, may be granted in accordance with Section 32-3.

32-57—32-59 RESERVED.

32-60 R-B RETAIL BUSINESS DISTRICT.

32-60.1 General.

a. *General Provisions.* All land within an R-B retail business district may be used for any of the following uses, under the following regulations set forth in this chapter.

32-60.2 Uses.

a. *Permitted Uses*. Uses permitted in the R-B district shall be as follows:

1. The carrying on of a retail business as defined in subsection 32-2.1 provided all the sales, demonstrations, displays, services and other activities of the retail business are conducted within an enclosed building, except that off-street parking shall be permitted;

2. All of the uses permitted in single family and two (2) family residential districts together with the uses permitted in these districts after the granting of land use permits;

3. Hotels and motels; and

4. Accessory signs providing such signs are not rotating, flashing or animated and do not exceed fifty (50) square feet of surface area except that double face signs shall be considered as having one (1) surface, and do not exceed twenty-five (25') feet in height.

b. *Uses Requiring a Land Use Permit*. In the R-B district the following uses are permitted after the issuance of a land use permit:

1. Lumber yard;

2. Cabinet shop;

3. Sheet metal shop;

4. Animal hospital;

5. Commercial dog kennel;

6. Hobby dog kennel;

7. Auto garage which includes body repair and painting;

8. Building contractor's yard;

9. Structures having three (3) or more residential apartment units. Minimum off-street parking requirements for apartment units shall be as required in subsection 32-24.9;

10. Other retail businesses where the sales, demonstrations, displays, services and other activities, or some of them, are conducted other than in an enclosed building;

11. Accessory signs having more than fifty (50) square feet in area, or more than twenty-five (25') feet in height or that are rotating, flashing or animated;

12. Nonaccessory signs;

13. Where a road, having a right-of-way width of fifty-five (55') feet or less, forms the common boundary between a district of this classification and a district of any residential classification, no access to property in the district of this classification adjacent to such common boundary shall be permitted to or from such road until a land use permit therefor shall have first been obtained. Such permit shall be determined by the effects of traffic upon such a road occasioned by use within such district, the characteristics of the adjacent

areas, traffic problems, pedestrian traffic, and other considerations found pertinent to the particular area concerned;

14. A manufacturing research use which is to be established in an existing fully enclosed building where no alterations, or a minimum amount of alterations, would be required to accommodate such use; and which wholly involves products of small bulk; and which meets the following standards:

(a) No smoke of any kind shall be permitted.

(b) No odors created by any industrial or processing operation shall be perceptible at the property site boundaries.

(c) No discharge into the air of any dust, dirt or particular matter, created by any industrial operation or emanating from any products prior to or subsequent to processing shall be permitted.

(d) No corrosive, obnoxious or toxic fumes or gases shall be permitted.

(e) No heat or glare shall be perceptible at any point beyond the subject boundaries.

(f) No manufacturing, processing or laboratory research shall be permitted which would create or establish an unusually special or dangerous fire or safety hazard to surrounding properties.

(g) No ground vibrations shall be perceptible at the property site boundaries.

(h) No emanation of noise exceeding seventy (70) decibels at the boundaries of the property shall be permitted.

(i) All manufacturing, processing or research operations shall be conducted within enclosed buildings.

(j) All open storage areas shall be screened by solid walls, fences or adequate plantings of not less than six (6') feet in height and in no case shall materials be stacked or stored higher than the screen.

15. Gasoline service station.

32-60.3 Lots.

a. *Lot Area*. All buildings or parts of buildings hereafter erected or altered for use for neighborhood business shall be situated on a lot at least thirty-five hundred (3500) square feet in area, and at least thirty-five (35) feet in average width.

32-60.4 Building Height.

a. *Building Height; Maximum*. No building or structure or part of it hereafter erected for a neighborhood business use shall be more than fifty (50) feet high above the highest point of ground elevation where the building is erected.

32-60.5 Yards.

a. *Side Yard*. No side yards are required.

b. *Setback*. Every structure erected for retail business use and every structure accessory to it shall be located at least ten (10') feet from the boundary line of any existing road or highway.

32-60.6 Land Use and Variance Permits.

a. *Granting*. Land use permits for the special uses enumerated in paragraph b. of subsection 32-60.2 and variance permits to modify the provisions contained in subsections 32-60.3-32-60.5 may be granted after application in accordance with Section 32-3.

32-60.7 Special District.

a. *Special District; Generally*. A single parcel of land, containing at least twenty (20) acres, located in a retail business district, may be developed as a special retail business district as provided in paragraphs b. through f. of this subsection.

b. *Enlarged Detailed Map*. An enlarged detailed map shall be made a part of this chapter and shall state on the map that it is a special retail business district. The map shall delineate, and set forth the conditions for the placement of buildings and spaces about buildings in legend form on the face of the map and thereby becomes a part of this subsection and of the detail of the area to which it applies.

c. *Land Use Permits*. Land use permits for the modification of any of the details set forth on the enlarged detail map may be granted after application under Section 32-3.

d. *Lot Area*. In special business districts paragraph a. of subsection 32-60.5, regulating lot area, shall not apply.

e. *Building Construction*. The enlarged detail map shall contain precise designations for sites of buildings. Only one (1) building may be constructed within a precise building site, but land use permits to construct additional buildings on the site may be granted after application under Section 32-3.

f. *Areas Not Included in Building Sites.* Areas in special retail business districts not included in precise building sites may be used for the following uses and purposes: walks, drives, curbs, gutters, parking areas, accessory buildings to parking areas, and other landscaping features not including buildings or structures, but buildings or structures may be erected in these areas on the issuance of a land use permit for them.

32-60.8 Development Plans.

a. *Development Plans Required, Procedure.* No development is lawful in an R-B district until a development plan for it has been

submitted and approved.

32-61 C GENERAL COMMERCIAL DISTRICT.

32-61.1 General.

a. *General Provisions.* All land within a C general commercial district may be used for any of the following uses, under the following regulations set forth in this chapter.

32-61.2 Uses.

a. *Uses Allowed.* The following uses are allowed in C districts:

1. All types of wholesale businesses, warehouses, freight terminals, trucking yards, lumberyards, cabinet shops, sheet metal shops, auto repair garages, contractor's yards, and uses allowed in single family and two family residential districts without or with a land use permit;

2. Uses allowed in R-B districts;

3. Animal hospitals;

4. Commercial dog kennels;

5. Accessory signs which are not rotating, flashing or animated, do not exceed eighty (80) square feet in surface area except that double-face signs shall be considered having one (1) surface, and do not exceed twenty-five (25') feet in height.

b. *Uses Requiring Land Use Permit*. In the C district the following uses are permitted after the issuance of a land use permit:

1. Transit-mix plants;

2. Motels;

3. Hotels;

4. Structures having three (3) or more residential apartment units. Minimum off-street parking requirements for apartment units shall be as required in Section 32-8;

5. Nonaccessory signs;

6. Accessory signs having more than eighty (80) square feet in area, or more than twenty-five (25') feet in height, or that are rotating, flashing or animated;

7. Where a road, having a right-of-way width of fifty-five (55') feet or less, forms the common boundary between a district of this classification and a district of any residential classification, no access to property in the district of this classification adjacent to such common boundary shall be permitted to or from such road until a land use permit therefor shall have first been obtained. Such permit shall be determined by the effects of traffic upon such a road occasioned by use within such district, the characteristics of the adjacent areas, traffic problems, pedestrian traffic, and other considerations found pertinent to the particular area concerned.

8. Gasoline service station.

32-61.3 Lots.

a. *Lot Area.* All buildings or parts of buildings hereafter erected in the C district shall be situated on lots at least seventy-five hundred (7,500) square feet in area.

32-61.4 Building Height.

a. *Building Height; Maximum*. No building or structure or part of it hereafter erected for a neighborhood business shall be more than fifty (50’) feet high above the highest point of ground elevation on the lot on which the building is erected.

32-61.5 Yards.

a. *Side Yard*. There shall be a side yard on each side of each building in the C district. There shall be aggregate side yards not less than ten (10’) feet wide, and the rear yard shall be at least twenty (20’) feet deep.

b. *Yard; Setback.* Every structure erected in the C district and every structure accessory to it shall be located at least ten (10’) feet from the boundary line of an existing public road or highway.

32-61.6 Land Use and Variance Permits.

a. *Granting*. Land use permits for the special uses enumerated in paragraph b of subsection 32-61.2 and variance permits to modify the provisions of subsections 32-61.3 through 32-61.5 may be granted after application in accordance with Section 32-3.

32-61.7 Development Plans.

a. *Required Procedure*. No development is lawful in a C district until a Development Plan for it has been submitted and approved.

32-62 L-I LIGHT INDUSTRIAL DISTRICT.

32-62.1 General.

a. *General Provisions.* All land within an L-I light industrial district may be used for any of the following uses, under the following regulations set forth in this chapter.

32-62.2 Uses.

a. *General Provisions.* Land in the L-I district may also be used for the following purposes: industrial uses which do not necessarily require or use steam generated on the premises as a prime power for the manufacturing process carried on, or extensive loading docks or similar facilities for the receiving or shipment of raw materials or semi-finished or finished products. Uses which emit dust, smoke, fumes, noise, or brilliant light, or are otherwise offensive to the senses or are of a kind of quality that their operation interferes with development or enjoyment of other property in the vicinity, may be established only after issuance of a land use permit establishing conditions for the use to prevent the creation or maintenance of a nuisance; uses included within the meaning of this proviso include, but are not limited to, hot mix, asphalt plants, rendering plants, food processing plants, tanneries, wineries, breweries, and other similar uses.

b. *Uses Requiring Land Use Permit*. All of the uses in the following districts are permitted after the granting of land use permits: Single family residential districts, multiple family residential districts, retail business districts, general commercial districts, and agricultural districts.

32-62.3 Lots.

a. *Lot Area*. All buildings or parts of buildings hereafter erected or altered in the L-I district shall be erected on a lot at least seventy-five hundred (7,500) square feet in area.

32-62.4 Building Height.

a. *Building Height Maximum*. No building or structure or part of it shall be more than three (3) stories high above the highest point of ground elevation on the lot on which the building is erected.

32-62.5 Yards.

a. *Side Yard*. All buildings erected on lots in the L-I district shall have side yards at least ten (10') feet wide on each side of each building.

b. *Yard Setback*. Every structure erected in the L-I district and every structure accessory to it shall be located at least ten (10') feet from the boundary line of any existing public road or highway.

32-62.6 Land Use and Variance Permits.

a. *Granting*. Land use permits for the special uses enumerated in subsection 32-62.2a and variance permits to modify the provisions contained in subsections 32-62.3 to 32-62.5 may be granted after application in accordance with Section 32-3.

32-63 P-1 PLANNED UNIT DISTRICT.

32-63.1 General.

a. *P-1 Planned Unit District.* All land within a P-1 district may be used as allowed and regulated in this section.

b. *Intent and Purpose.* A large-scale integrated development, infill development, or a General Plan special area of concern provides an opportunity for, and requires cohesive design when flexible regulations are applied; whereas the application of conventional regulation, designed primarily for individual lot development, to a large-scale development, infill development, or special area may create a monotonous and inappropriate neighborhood or development. The planned unit P-1 district is intended to allow diversification in the relationship of various uses, buildings, structures, lot sizes and open spaces, ensure compatibility with surrounding land uses, and to ensure substantial compliance with the General Plan and the intent of the Town Municipal Code in requiring adequate standards necessary to satisfy the requirements of the public health, safety and general welfare. These standards shall be observed without unduly inhibiting the advantages of a large-scale site or special area planning. The P-1 district may also be used to provide additional zoning control by establishing site specific conditions of approval and standards for a specific P-1 district.

(Ord. #98-07, §2)

32-63.2 Uses.

a. *Uses*. The following uses are allowed in the P-1 district:

1. Any land uses permitted by an approved final development plan which are in harmony with each other, serve to fulfill the function of the planned unit development, and are consistent with the General Plan;

2. A detached single family dwelling on each legally established lot and the accessory structures and uses normally auxiliary to it;

3. A second unit which complies with Section 32-76 of this chapter, if a land use permit is first obtained

b. *Restriction*. No person shall grade or clear land, erect, move, or alter any building or structure on any land, after the effective date of its rezoning to a P-1 district, except when in compliance with an approved final development plan and/or this section.

c. *Interim Exceptions*. If any land has been zoned P-1 district but no preliminary development plan approved thereon, the following may be approved:

1. Single Family Dwelling. Where it is established to the satisfaction of the Chief of Planning that a vacant parcel of land is a legal lot and the one (1) detached single family dwelling proposed to be located thereon is consistent with the general plan, the dwelling may be placed on the lot without being subject to the application submittal, development plan review and approval provisions of this chapter.

2. Nonconforming Use. Until a final development plan is approved, any nonconforming use lawfully existing at the time of the establishment of P-1 zoning on that property may be repaired, rebuilt, extended, or enlarged in accordance with Section 32-4.

(Ord. #98-07, §2)

32-63.3 Site Minimums.

a. *Areas*. There is no minimum site area for a P-1 district. The appropriateness of using a P-1 district shall be determined on a case-by case basis based on the specific characteristics of the site and the need to provide additional zoning control by establishing site specific conditions of approval and standards for a specific P-1 District.

(Ord. #98-07, §2)

32-63.4 Density.

a. *Residential*. In computing the net development area to set residential densities, use the general plan as a guide and exclude areas which are not developable due to geologic, topographic, and natural factors (such as creeks, floodplains, etc.), areas set aside for churches, schools, commercial use or other nonresidential use, but include areas set aside for common open space, outdoor recreation or parks.

(Ord. #98-07, §2)

32-63.5 Rezoning.

a. *Procedure.* After initiation by the planning agency or final application approval, an area may be zoned "P-1 planned unit district" in accordance with Title 7 of the California Government Code and this chapter, and the zoning map of the area shall then be identified with the map symbol "P-1."

b. *Ordinance Plan.* If an application for P-1 zoning and a preliminary or final development plan is finally approved, the preliminary or final development plan and any conditions attached thereto, as approved or later amended, shall be filed with the Planning Department, and they are thereby incorporated into this chapter and become a part of the ordinance referred to in paragraph a. of this subsection.

c. *Rezoning and Development Plan Application*. Except as waived in writing by the Chief of Planning, the application for rezoning to P-1 district and concurrent approval of a preliminary development consists of each of the following:

1. A preliminary development plan, drawn to scale, indicating:

(a) Proposed use(s) of all land in the subject area;

(b) Existing natural land features, and topography of the subject area;

(c) Circulation plan for all vehicular and pedestrian ways;

(d) Metes and bounds of the subject property;

(e) Location and dimensions of all existing structures;

(f) Landscaping, parking areas, and typical proposed structures;

(g) Anticipated grading for the development.

2. A written legal description of the subject area;

3. A preliminary report on provision for storm drainage, sewage disposal and public utilities;

4. A feasibility analysis of all public and semipublic recreational and educational areas and facilities proposed to be located within the development, stating anticipated financing, development and maintenance;

5. A residential density analysis of the subject area, and the estimated population resulting therefrom;

6. A statement of how the proposed development conforms to, and is consistent with the general plan;

7. A request for zoning change signed by the owner, and by the owner of any option to purchase the property or any portion thereof, if any;

8. Schematic drawings indicating the architectural design of all nonresidential buildings and structures and all residential buildings having attached units. Residential buildings utilizing zero lot line, cluster or patio techniques, typical designs shall be submitted. Single family detached units on difficult topography may require design and placement review when requested by the Chief of Planning;

9. A statement of the stages of development proposed for the entire development, indicating the sequence of units and explaining why each unit standing by itself would constitute reasonable and orderly development in relation to the entire contemplated development where it is proposed to file final development plans by units for portions of the area to be covered by the preliminary development plan; and

10. Any additional information as may be required by the Planning Commission or Town Council at the time of any public hearing.

(Ord. #98-07, §2)

32-63.6 Final Development Plan.

a. *Requirements*.

1. The final development plan drawn to scale, shall:

(a) Indicate the metes and bounds of the boundary of the subject property together with dimensions of lands to be divided;

(b) Indicate the location, grades, widths and types of improvements proposed for all streets, driveways, pedestrian ways and utilities;

(c) Indicate the location, height, number of stories, use and number of dwelling units for each proposed building or structure;

(d) Indicate the location and design of vehicle parking areas;

(e) Indicate the location and design of proposed landscaping, except for proposed single family residential development;

(f) Indicate the location and design of all storm drainage and sewage disposal facilities;

(g) Provide an engineer's statement of the proposed grading;

(h) Indicate the location and extent of all proposed land uses.

2. In addition, the final development plan shall be accompanied by:

(a) Elevations of all buildings and structures other than single family residences;

(b) A statement indicating procedures, and programming for the development and maintenance of public or semipublic areas, buildings and structures;

(c) A statement indicating the stages of development proposed for the entire development;

(d) Any additional drawings or information as may be required by the Planning Commission at the time of any public hearing in the matter.

b. *Approval Procedure*.

1. The final development plan shall be submitted to the Planning Commission for approval, as with use permit applications, except it is the Commission which hears and reviews it. The Commission's decision may be appealed to the Town Council in accordance with Section 30-7 and subsection 28.5, otherwise it becomes final.

2. A final development plan may he approved by the Planning Commission for a portion or unit of the approved preliminary development plan, in accordance with the sequence of units authorized by its conditions of approval, or upon a showing of both good cause and that the proposed portion or unit would, standing by itself, constitute reasonable and orderly development in relation to the entire development.

c. *Combined Application and Final Plan*.

1. Combination. An applicant for rezoning to the P-1district may submit simultaneously and in combination with the zoning application or thereafter but before the Town Council's final zoning decision, an application for approval of a final development plan for the entire property. The application and proposed final development plan shall comply with the requirements of subsections 32-63.2 and 32-63.6a.

2. Procedure. Such a combined final development plan application shall be processed, noticed, and heard by the Planning Commission. The Commission's decision shall be a recommendation to the Town Council which shall make the final decision on the final development plan along with the rezoning pursuant to subsection 32-63.5.

(Ord. #98-07, §2)

32-63.7 Plan Objectives, Regulations and Evaluations.

a. *Design Objectives.* To achieve design and aesthetic quality for large-scale integrated developments, infill developments, and/or General Plan special areas of concern, the following design objectives shall be met:

1. Building bulk, height, land coverage, visual appearance from adjacent land, and design compatibility with existing adjoining development and land which will remain, shall be considered and controlled.

2. A development's design should successfully integrate individual buildings and the building groups with the surrounding development, other physical features in the area, and existing development which will remain.

3. The design of structures should provide for harmonious composition of mass, scale, color, and textures, with special emphasis on the transition from one (1) building type to another, termination of groups of structures, relationships to streets, exploitation of views, and integration of spaces and building forms with the topography of the site and the urban or suburban character of the area.

4. Provisions are to be made for an efficient, direct and convenient system of pedestrian circulation, together with landscaping and appropriate treatment of any public areas or lobbies.

5. Off-street parking and loading areas should be integrated into the overall vehicular circulation system.

b. *Latitude of Regulations.* The Planning Commission may recommend and the Town Council may adopt as part of the preliminary development plan, and may require in the final development plan; standards, regulations, limitations and restrictions which are either more or less restrictive than those specified within an alternate zoning district which would be applicable if the P-1 district were not proposed, and which are designed to protect and maintain property values and community amenities in the subject community, and which would foster and maintain the health, safety and general welfare of the community. If standards, regulations, limitations and restrictions which are less strict than those specified in the code are proposed, the applicant shall prepare alternate plans. as determined necessary by the Chief of Planning, which comply with applicable standards, regulations, limitations and restrictions, to allow a comparison of floor area ratio between the proposed plan and the plan which complies with all applicable standards. The floor area ratio of the proposed project shall be limited to be comparable with the alternate plan, unless otherwise approved by the Planning Commission or Town Council, as a result of demonstrated benefits to the project and/or neighborhood resulting from the proposed plan. The standards, regulations, limitations and restrictions may include, but are not limited to the following:

1. Height limitations on buildings and structures;

2. Percent coverage of land by buildings and structures;

3. Parking ratios and areas expressed in relation to use of various portions of the property and/or building floor area;

4. The location, width and improvement of vehicular and pedestrian access to various portions of the property including portions within abutting streets;

5. Planting and maintenance of trees, shrubs, plants and lawns in accordance with a landscaping plan;

6. Construction of fences, walls and floodlighting of an approved design;

7. Limitations upon the size, design, number, lighting and location of signs and advertising structures;

8. Arrangement and spacing of buildings and structures to provide appropriate open spaces around same;

9. Location and size of off-street loading areas and docks;

10. Uses of buildings and structures by general classification, and by specific designation when there are unusual requirements for parking, or when use involves noise, dust, odor, fumes, smoke, vibration, glare or radiation incompatible with present or potential development of surrounding property;

11. Architectural design of buildings and structures;

12. Schedule of time for construction and establishment of the proposed buildings, structures, or land uses or any stage of development thereof; and

13. Requiring of performance bonds to ensure development as approved.

c. *Evaluations*. When approving and adopting the rezoning application, the preliminary development plan or the final development plan, the Planning Commission and/or the Town Council as the case may be, shall be satisfied that:

1. The applicant intends to start construction within two and one-half (2 1/2) years from the effective date of zoning change and plan approval;

2. The proposed planned unit development is consistent with the county General Plan;

3. In the case of residential development, it will constitute a residential environment of sustained desirability and stability, and will be in harmony with the character of the surrounding neighborhood and community;

4. In the case of the commercial development, it is needed at the proposed location to provide adequate commercial facilities of the type proposed, and that traffic congestion will not likely be created by the proposed center, or will be obviated by presently projected improvements and by demonstrable provisions in the plan for proper entrances and exits, and by internal provisions for traffic and parking, and that the development will be an attractive and efficient center which will fit harmoniously into and will have no adverse effects upon the adjacent or surrounding development;

5. In the case of proposed industrial development, it is fully in conformity with the applicable performance standards, and will constitute an efficient and well organized development, with adequate provisions for railroad and/or truck access service and necessary storage, and that such development will have no adverse effect upon adjacent or surrounding development; and

6. The development of a harmonious, integrated plan justifies exceptions from the normal application of this Code.

(Ord. #98-07, §2)

32-63.8 Termination.

a. *Procedure.*

1. Reversion. P-1 district shall become null and void, and the land use district classification shall revert to the immediately preceding zoning designation if either:

(a) Within eighteen (18) months after the effective date of the establishment of the P-1 district and/or the approval of the preliminary development plan (whichever is sooner), a final Development Plan is not submitted to the Planning Commission, or

(b) Within twelve (12) months after the Planning Commission's approval of the final development plan, the construction specified

in the final development plan has not been commenced.

2. Time Limit Exception. The time limitation in paragraph a,1,(2) of this section applies only to the first final development plan of a unit of a phased preliminary development plan; it does not apply after approval and implementation of such first final development plan.

3. Extensions. Upon showing of good cause, the Town Council may grant not more than five (5) extensions of the time limitations set forth in paragraph a,1, each for no more than one (1) year and all extensions totaling five (5) years or less.

(Ord. #98-07, §1)

32-63.9 Plan Changes.

a. *Preliminary Development Plan.*

1. Changes. Changes, in the approved preliminary development plan and its conditions of approval, may be approved by the Planning Commission, as with land use permit applications except that it is the Commission which hears and reviews them. The Commission's decision may be appealed to the Town Council in accordance with Section 30-4 and subsection 2-8.5, otherwise it becomes final.

2. Rezoning. When substantial changes in the preliminary development plan involve a reduction of or addition to its land area, then a rezoning application shall be submitted for consideration.

b. *Final Development Plan*.

1. Review, Hearing. The Planning Commission shall review approved final development plan applications for modification pursuant to and otherwise regulated by the land use permit provisions of Section 2-8, for which they may schedule a public hearing and shall do so if they determine that a substantial modification is being requested in an approved final development plan.

2. Findings. In approving the modification application, he shall find that it is consistent with the intent and purpose of the P-1 district and compatible with other uses in the vicinity, both inside and outside the district.

3. Conditions. The Planning Commission may impose reasonable conditions and limitations to carry out the purpose of the P-1 district when approving any modification. (Ord. #98-07, §2)

32-63.10 Variance Permits.

a. *Granting*.

1. Procedure. Variance permits to modify the provisions contained in subsection 32-63.3 may be granted in accordance with Sections 2-8 and 32-3.

2. General Plan Consistency. Such variance permit shall not be granted by the Planning Agency hearing the matter unless it finds that the variance is consistent with the General Plan. (Ord. #98-07, §2)

32-64—32-68 RESERVED.

ARTICLE VII

ADDITIONAL REQUIREMENTS FOR DEVELOPMENT

32-69 SCENIC HILLSIDE AND MAJOR RIDGELINE DEVELOPMENT. *

* Editor's Note: Section #2 of Ord. #29-84 provides as follows:

Section 2. The requirements of this ordinance do not apply to the following:

(1) A project for which a building permit was issued before the effective date of this ordinance;

(2) A project for which a complete building permit application was submitted before adoption of Ordinance No. 27-84 (An Interim Ordinance to Suspend Development Along Ridgeline Areas) or any extension thereof; or

(3) A valid tentative subdivision map approved before the effective date of this ordinance. However, the development of parcels created by such tentative subdivision maps shall not be exempt from the provisions of this ordinance.

32-69.1 Findings and Declaration of Intent. *

a. The Town Council finds that:

1. There are hills and ridges within the Town which because of their physical dominance of the Town's landscape constitute significant natural topographical features and comprise a large part of the natural open space and scenic resources of the community;

2. It is desirable to require in these areas an alternative approach to traditional and conventional flat land practices of residential development, to keep grading and cut and fill operations consistent with the retention of the natural character of the hillside and ridgeline areas, and to preserve the predominant views both from and of the hillside and ridgeline areas;

3. Passive open spaces are desirable and necessary to maintain the quality of life enjoyed by the residents of the community;

4. The retention of scenic hillsides and ridgelines in as near a natural state as is feasibly consistent with the rights granted by law to property owners to develop their properties is important to the community's aesthetic qualities and will preserve a desirable visual identity of the Town;

5. Hillside development requires special attention to the provision of public facilities and improvements in order to protect the heath and safety of human life and property;

6. The repair and stabilization of unsafe slide areas is crucial to the health, safety and welfare of the community, and to the preservation of both public and private investments in such areas;

7. The Town recognizes that each property has its own unique characteristics, including, but not limited to topography, tree cover and visual impact. The regulations in this chapter are intended to provide flexibility in the treatment of the development of individual properties as indicated by their uniqueness rather than to provide a fixed set of strict standards applicable in the same manner to all properties. In this way each property can be developed to its full potential consistent with the land use constraints as imposed by this chapter and other applicable land use regulations; and

8. The imposition of the regulations imposed by this chapter may protect the Town from liability for soils instability by requiring that consideration be given to the presence of critically expansive soils or other soils problems.

b. The purposes of this section are to:

1. Preserve significant features of scenic hillsides and major ridgeline areas in essentially their natural state as part of a comprehensive open space system;

2. Keep the semi-rural qualities of the Town by preserving its open and uncluttered natural topographic features;

3. Encourage in these areas an alternative approach to conventional flat land practices of development;

4. Keep grading and cut and fill operations consistent with the retention of the natural character of the scenic hillsides and major ridgelines;

5. Minimize the water runoff and soil erosion problems incurred in adjustment of the terrain to meet on-site and off-site development needs;

6. Insure that the open space as shown on any Development Plan is consistent with the open space element shown on the General Plan;

7. Preserve the predominant views of the scenic hillsides and major ridgelines and to retain the sense of identity and image that these areas now impart to the Town and its environs;

8. Require retention of trees and other vegetation which stabilize slopes, retain moisture, minimize erosion and enhance the natural scenic beauty and safety qualities of the hills;

9. Require planting whenever appropriate to maintain necessary cut-and-fill slopes, to stabilize them by plant roots, and to conceal the raw soil from view; and

10. Require retention of natural landmarks and prominent natural features that enhance the character of the Town. (Ord. #29-84, §8-5001; Ord. #2002-03, §2)

* Editor's Note: Section #2 of Ord. #29-84 provides as follows:

Section 2. The requirements of this ordinance do not apply to the following:

(1) A project for which a building permit was issued before the effective date of this ordinance;

(2) A project for which a complete building permit application was submitted before adoption of Ordinance No. 27-84 (An Interim Ordinance to Suspend Development Along Ridgeline Areas) or any extension thereof; or

(3) A valid tentative subdivision map approved before the effective date of this ordinance. However, the development of parcels created by such tentative subdivision maps shall not be exempt from the provisions of this ordinance.

32-69.2 Definitions.

In this section unless the context otherwise requires:

Major ridgeline areas means lands situated at the crest of a range of hills or mountains. When referring to land or areas to which this section applies, major ridgeline areas shall be as identified on Figure 10 of the Danville 2010 General Plan, as may be amended from time to time.

Scenic hillside areas means lands with elevated land formations with unique visual character. When referring to land or areas to which this section applies, scenic hillside areas shall be as identified on Figure 10 of the Danville 2010 General Plan, as may be amended from time to time. (Ord. #29-84, §8-5002; Ord. #2002-03, §2)

32-69.3 Applicability and Relation to Other Land Use Regulations.

a. This section applies to scenic hillside and major ridgeline areas which are shown and defined as such on Figure 10 of the Danville 2010 General Plan, as may be amended from time to time.

b. Both the regulation established under the zoning district to which the land is classified and this section shall apply to lands identified as scenic hillside and major ridgeline areas. If there is a conflict between this section and the land use regulations established under the zoning district, this section and the regulations, requirements, and the conditions imposed under the authority of this section shall control. (Ord. #29-84, §8-5003; Ord. #2002-03, §2)

32-69.4 Uses and Development of Lands Identified as Scenic Hillside or Major Ridgeline Areas.

a. *Permitted Uses.* The uses and conditional uses permitted on lands identified as scenic hillside or major ridgeline areas shall be as established under the zoning district in which the site is located.

b. *Prohibited Development.* No development is permitted within one hundred (100) feet (measured vertically) of the centerline of a major ridgeline (the line running along the highest portion), except when an exception is granted by the Planning Commission in accordance with subsection 32-69.10.

c. *Development Prohibited Without Permit.* Except as provided under subsection 32-69.12, no person may grade, clear, construct upon or alter scenic hillside or major ridgeline areas without approval granted under this section.

d. *Subdivisions.* The subdivision of lands identified as major ridgeline or scenic hillside areas shall not result in the creation of a building site within one hundred (100) feet (measured vertically) below the centerline of a major ridgeline, the creation of a lot that does not have a building site on a slope less than thirty percent (30%) in steepness, or in any way results in a building site which does not comply with any of the requirements within this section.

e. *Grading.* No grading which results in the movement of twenty-five (25) or more cubic yards of soil within lands identified as scenic hillside or major ridgeline area shall be allowed without a hillside grading permit. A scenic hillside or major ridgeline development plan permit may be required, at the discretion of the Chief of Planning, prior to the issuance of a hillside grading permit. Factors in determining the need for a scenic hillside or major ridgeline development plan permit shall include visibility of the site, impacts on mature trees, drainage issues, the steepness of the site, and geotechnical stability. The movement of one hundred (100) or more cubic yards of soil shall not be allowed without the approval of both a hillside grading permit and scenic hillside or major ridgeline development plan permit.

f. *Development Standards.* No person may construct improvements on lands identified as scenic hillside or major ridgeline areas, nor shall any building or other permit be issued, unless or until the applicant has complied with the development standards contained within subsection 32-69.7.

(Ord. #29-84, §8-5004; Ord. #2002-03, § 2; Ord. #08-07, § 2)

32-69.5 Application for Scenic Hillside or Major Ridgeline Development Permit.

a. *Requirement for Permit*. A person who desires to erect a structure on, or to grade or improve lands identified as scenic hillside or major ridgeline areas, or to make exterior modifications to existing structures located upon such lands, must receive a scenic hillside or major ridgeline development plan permit. The application may be combined with an application for a land use permit, tentative subdivision map, rezoning, or other land use entitlement.

b. *Application and Information*. An applicant shall file an application on a form provided by the Town. The Chief of Planning will also require supplemental plans and information needed to properly review the application, including, but not limited to, the following:

1. Site Development Plan. A site development plan, drawn at a one (1) inch equals twenty (20) feet scale (or as otherwise authorized by the Chief of Planning), showing the location and outline of all existing and proposed structures, streets, parking areas, retaining walls, limits of grading, utilities, and the location of nearby homes on adjacent properties.

2. Tree Survey Plan. An accurately drawn tree survey plan, drawn at a one (1) inch equals twenty (20) feet scale (or as otherwise authorized by the Chief of Planning), showing the location, size and species of all trees greater than four (4) inches in diameter measured four and one-half (4 1/2) feet above the ground. The plan shall indicate any trees which are proposed to be removed.

3. Tree Report. A tree report, prepared by a certified arborist and listing all trees shown on the tree survey plan. For all trees determined to be protected trees, as defined by Section 32-79, the report shall evaluate the health of the trees and shall identify any mitigation measures that should be employed to maximize the long term health of the trees. If development is proposed to occur within the dripline of any protected tree, the report shall evaluate the potential impact of the development of the tree(s), and recommend mitigation measures to prevent or minimize damage to the tree(s).

4. Geotechnical and Soils Report. A preliminary geotechnical and soils investigation and report prepared by a certified engineering geologist licensed by the State of California or by a registered civil engineer qualified in soils mechanics by the State of California. The report shall identify any significant geologic problems, critically expansive soils or other unstable soil condition which, if not corrected, may lead to structural damage or future geologic problems both on and off the site. The report shall include recommendations for corrective measures deemed necessary to prevent potential damage to the proposed development and adjacent properties. The report shall take into consideration geotechnical and soil issues related to the specific design and features of the subject development plan application, as found necessary by the City Engineer.

5. Preliminary Grading Plan. A preliminary grading plan indicating existing and proposed grades on a drawing to a scale of not less than one (1) inch equals twenty (20) feet, and contours at intervals not greater than two (2) feet. The plan shall show the location of all existing and proposed retaining walls over two (2) feet in height.

6. Preliminary Landscape and Irrigation Plan. A preliminary landscape and irrigation plan with planting shown at a one (1) inch equals twenty (20) feet scale (or as otherwise authorized by the Chief of Planning) showing the proposed type and location of plant materials, preliminary irrigation design, and hardscape to be installed as part of the development. The plan shall include common names of all plant materials and shall indicate the size that various plant materials will achieve within a five (5) year period of time.

7. Architectural Plans. Architectural design plans showing all four (4) exterior elevations, floor and roof plans of new or modified structures. The elevations shall be drawn in a hard-line manner to clearly depict all proposed features of the architecture. The plans shall include notes and section drawings as necessary to clearly define all details of the architecture. A design review board submittal requirement checklist, available through the Danville Planning Division, must be completed and submitted along with any architectural

plans related to a scenic hillside or major ridgeline development plan application.

8. Lighting Plan. An exterior lighting plan showing the proposed location and design, including the lighting fixture design, of all existing and proposed exterior lights.

9. Drainage Plan. A drainage plan showing existing and proposed drainage improvements to accommodate storm water run-off from the development. (Note: A hydraulic/hydrologic study may be required if determined necessary by the City Engineer.)

10. Section Drawing. Section drawings drawn through the highest portion of all structures proposed under a development plan request. For sloping building sites, the section drawing must be drawn from a point located a minimum of fifty (50) feet above the proposed development to a point located a minimum of fifty (50) feet below the proposed development. The section drawing shall show the location of the natural grade, proposed cut and/or fill, and the proposed structure.

11. Story Poles/Footprint Stakes. Unless otherwise approved by the Planning Division, the applicant shall be required to install story poles and to stake and paint, or chalk, the outline of the proposed structure's footprint. The story poles shall be constructed to depict the maximum height of the primary ridgeline of the structure. Story poles shall be constructed using sturdy materials. Red flags shall be affixed to the top of each story pole. The story poles and stakes shall be established on the site a minimum of ten (10) days prior to any Design Review Board, Planning Commission and/or Town Council meeting on the project, and shall be maintained as required until after each hearing. Failure to comply with this requirement may result in a delay in the hearing schedule for the project.

c. *Designation of Reviewing Body*. The reviewing body is the authority charged with the duty of acting on a scenic hillside or major ridgeline development plan request. For an application that requires only grading or building permit approval for lands identified as scenic hillside areas, the Chief of Planning shall be the reviewing body. At the discretion of the Chief of Planning, such application may be referred to the Design Review Board and/or the Planning Commission for consideration. In all other cases requiring processing of a scenic hillside or major ridgeline development plan application, the Planning Commission shall be the approving body. (Ord. #29-84, §8-5005; Ord. #2002-03, §2)

32-69.6 Minimum Lot Area for Lands Identified as Scenic Hillside or Major Ridgeline Areas.

The minimum lot area shall not be less than that prescribed by the applicable land use district and which is consistent with the general plan. However, the required lot areas may be required to be larger than the minimum allowable lot size when the reviewing body finds that it is necessary to do so because of the physical terrain, such as slopes greater than thirty (30%) percent or areas of geotechnical instability, in order to assure that there will be suitable building site for the approved use. In determining whether it is necessary to increase or decrease the lot area, the reviewing body shall apply the standards set forth in subsection 32-69.7. (Ord. #29-84, §8-5006; Ord. #2002-03, §2)

32-69.7 Hillside Development Standards.

Development of lands identified as scenic hillside of major ridgeline areas shall comply with the following development standards.

a. *Structure Height*. The maximum height of the primary residence constructed on lands identified as major ridgeline or scenic hillside areas shall be twenty-eight (28) feet. For homes with a finished grade building elevation located within twenty-eight (28) feet (measured vertically) below the centerline of a major ridgeline (requiring approval of an exception as outlined in this section), the maximum height of the primary residence shall be limited to twenty-four (24) feet. The maximum height of any accessory structure on such lands shall be fifteen (15) feet.

The maximum allowable height of any structures shall be measured vertically, at any point of the footprint of the proposed structure, from either natural grade or finished grade building elevation, whichever is lower. These height limits do not apply to chimneys or other minor architectural features.

b. *Mass*. The design of the primary residence or accessory structure(s) shall minimize the perception of excessive bulk. Structures constructed on slopes shall utilize stepped foundations. Architecture shall include sufficient variation to avoid large flat wall areas and to create shade and shadow. Two-story vertical walls and long, uninterrupted roof ridgelines shall be avoided.

c. *Colors/Materials*. Exterior colors for all structures shall be muted with the intent of blending into the surrounding natural environment. Colors such as browns and tans are considered appropriate on lands identified as scenic hillside or major ridgeline areas. Natural materials such as wood siding are preferred. Roof materials shall be dark in color and non-reflective, or as otherwise approved through the permit process. Red tile roofs are expressly prohibited. Mockups of the exterior colors shall be provided on the structure, as determined necessary by the Chief of Planning, for final review and approval by the Planning Board (whichever was the approving body) prior to the painting of the structure.

Any future addition shall match the approved colors and materials for the primary structure. Any change to the approved colors and materials shall require approval of a revised scenic hillside or major ridgeline development plan application. A deed notification shall be required to be recorded to run with the title of the property which notifies future property owners of the color and materials restrictions.

d. *Landscaping*. When a development is proposed on lands identified as scenic hillside or major ridgeline areas, tree planting to help screen the development from view shall be established. Trees shall be of a native variety and shall be planted in a natural pattern to break up the mass of the structure. Palm trees shall not be allowed (see hillside/ridgeline design guidelines for recommended tree list). Trees shall be minimum fifteen (15) gallon box specimen size. Depending on the visibility and need for immediate screening, trees may be required to be twenty-four (24) to forty-eight (48) inch box specimen size. Automatic drip irrigation for the trees shall be required until the trees are established, with a minimum of two (2) years. The trees shall be maintained in a healthy growing condition on the site.

When trees are required to be planted to mitigate visual impacts of a proposed development, the applicant shall submit a cash deposit, or other security acceptable to the Chief of Planning, in the minimum amount of five thousand ($5,000) dollars with a maximum amount

of fifteen thousand ($15,000) dollars. After two (2) full growing seasons, the Planning Division shall inspect the health of the trees that were required to be planted. Prior to the Town's release of the security deposit, the applicant shall be required to replace any of the required trees that have not survived. Where replacement trees are required to be planted, the two (2) year security period shall be repeated. However, upon approval by the Chief of Planning, the amount of the security may be reduced to reflect the estimated value of the replacement trees.

Prior to the issuance of permits to initiated the approved development, the applicant shall be required to record a declaration to run with the title of the property to notify subsequent property owners of the obligation to maintain the required trees on the site in a healthy condition.

e. *Vegetation*. Existing native vegetation on a site proposed for development, including trees, shrubs, and grasses, shall be preserved to the extent possible, during and after construction, and shall be consistent with any recommendations contained within an arborists report prepared for the project.

f. *Grading*. Grading of a site shall be limited to the minimum level necessary to reasonably develop the site. Establishment of large flat pads and yard areas on slopes greater than twenty (20%) percent shall be discouraged. The use of extensive retaining wall systems to develop building pad areas and/or yard areas serving the residence shall be avoided.

g. *Fencing*. All fencing shall be open wire fencing. Fence posts shall be natural wood color, or painted a dark color. Solid wood fencing within thirty (30) feet of the primary structure may be considered through the development plan review process where such fences are found not to result in negative visual impacts.

h. Lighting. Exterior lighting shall be established and maintained at minimal functional levels of brightness. Light sources shall be screened to direct light onsite and to screen the light source from offsite views. Light fixtures shall be kept low to the ground. (Ord. #29-84, §8-5007;Ord. #2002-03, §2)

32-69.8 Additional Development Requirements.

The reviewing body may impose additional restrictions or requirements related to the development of a parcel located within identified scenic hillside or major ridgeline areas. These additional restrictions may be required if it is found that the parcel requires additional protection because of its prominence and location or if it is determined that there may be exceptional hazards related to its development. Such additional restrictions or requirements must be consistent with the requirements of this section. (Ord. #29-84, §8-5008; Ord. #2002-03, §2)

32-69.9 Dedication.

The reviewing body may require as a condition of approval the dedication of (a) scenic easement(s) covering the remaining undeveloped areas of a parcel approved for development. No development that alters the natural appearance of the land, including the construction of structures or grading, shall be allowed within the area covered by the scenic easement(s). Non-native plantings, such as vineyards or orchards may be considered on a case by case basis through the development review process. (Ord. #29-84, §8-5009; Ord. #2002-03, §2)

32-69.10 Exception to Permit Development Within One Hundred (100) Feet of Major Ridgeline.

An exception to modify paragraphs b. and d. of subsection 32-69.4 to permit development within one hundred (100) feet (measured vertically) of the centerline of a major ridgeline may be granted by the Planning Commission in accordance with the zoning ordinance when the Planning Commission finds any one (1) of the following:

a. Due to the application of this section, a structure could not otherwise be constructed on the parcel;

b. Development is designed to take place as far beneath the centerline of the major ridgeline as practical; or

c. The proposed siting, grading, landscaping and architecture are such that the development will not conflict with the purposes set forth in subsection 32-69.1.b. (Ord. #29-84, §8-5010; Ord. #2002-03, §2)

32-69.11 Map.

a. Figure 10 of the Danville 2010 General Plan Map, showing the land subject to this section and referred to in subsection 32-69.3a, is attached to this section and incorporated by reference. *

b. If, in fixing the boundaries of lands identified as scenic hillside or major ridgeline areas as shown on Figure 10 of the Danville 2010 General Plan in relation to a specific parcel of property, there is uncertainty or dispute as to whether a property is subject to this section, the applicant shall prepare a precise topographic study fixing the location of the property in relation to the centerline of the pertinent adjoining major ridgeline. (Ord. #29-84, §8-5011; Ord. #2002-03, §2)

* Editor's Note: The Danville General Plan Map may be found in the Office of the Planning Director of the Town of Danville.

32-69.12 Exceptions to Section 32-69.

This section does not apply to:

a. Emergency site maintenance and emergency site repairs;

b. A one-time, first-story building addition, with a maximum height of fifteen (15) feet, containing less than one hundred (100) square feet of floor area; or

c. Animal-secure wire fencing;

d. As to scenic hillside areas only, the performance of work for which neither a building permit, grading permit, conditional use permit, subdivision map approval or other land use entitlement is required. (Ord. #29-84, §8-5012; Ord. #2002-03, §2)

32-69.13 Exception.

Any proposed development within lands identified as major ridgeline or scenic hillside areas that is not consistent with the development standards contained within this section shall require the approval of an exception by the Planning Commission during a noticed public hearing. In order to grant an exception, the Planning Commission must determine that the exception will not result in development which is contrary to the purposes of this section as set forth in subsection 32.69.1.b. (Ord. #29-84, §8-5013; Ord. #2002-03, §2)

32-69.14 Appeal.

A person desiring to appeal a decision made under this section may do so under Section 30-7 of the Danville Municipal Code. (Ord. #2002-03, §2)

32-70 WIRELESS COMMUNICATION FACILITIES.

32-70.1 Title.

This chapter shall be titled the "Wireless Communication Facilities Ordinance for the Town of Danville." (Ord. #2018-07, § 2)

32-70.2 Purpose and Intent.

a. The Town of Danville intends this chapter to establish reasonable, uniform and comprehensive standards and procedures for wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the Town's territorial boundaries, consistent with and to the extent permitted under federal and California state law. The standards and procedures contained in this Chapter are intended to, and should be applied to, consistent with and to the extent permitted under federal and California state law, protect and promote public health, safety and welfare, and also balance the benefits that flow from robust, advanced wireless services with the Town's local values, which include without limitation the aesthetic character of the Town, its neighborhoods and community. This chapter is also intended to reflect and promote the community interest by (1) ensuring that the balance between public and private interest is maintained on a case-by-case basis; (2) protecting the Town's visual character from potential adverse impacts or visual blight created or exacerbated by wireless communications infrastructure; (3) protecting and preserving the Town's environmental resources; and (4) promoting access to high-quality, advanced wireless services for the Town's residents, businesses and visitors.

b. This chapter is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the Town may not deny under federal or California state law; (6) impose any unfair, unreasonable, discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or (7) otherwise authorize the Town to preempt any applicable federal or California law. (Ord. #2018-07, § 2)

32-70.3 Definitions.

a. *Approval authority* means the Council, Commission, Board, or official responsible for review of applications and vested with the authority to approve or deny such applications.

b. *Base station* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(1), as may be amended.

c. *CPCN* means a "Certificate of Public Convenience and Necessity" granted by the CPUC or its duly appointed successor agency pursuant to California Public Utilities Code §§ 1001 et seq., as may be amended or superseded.

d. *CPUC* means the California Public Utilities Commission established in the California Constitution, Article XII, § 5, or its duly appointed successor agency.

e. *FCC* means the Federal Communications Commission or its duly appointed successor agency.

f. *OTARD* means any "over-the-air reception device" subject to 47 C.F.R. §§ 1.4000 et seq., as may be amended or superseded, which includes satellite television dishes not greater than one meter in diameter.

g. *Personal wireless service facilities* mean the same as defined in 47 U.S.C. § 332(c)(7)(C)(ii), as may be amended or superseded, which defines the term as facilities that provide personal wireless services.

h. *Personal wireless services* mean the same as defined in 47 U.S.C. § 332(c) (7) (C)(i), as may be amended or superseded, which defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.

i. *RF* means radio frequency or electromagnetic waves generally between 30 kHz and 300 GHz in the electromagnetic spectrum range.

j. *Section 6409* means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96,126 Stat. 156, codified as 47 U.S.C. § 1455(a), as may be amended.

k. *Shot clock* means the presumptively reasonable time defined by the FCC in which a State or local government must act on an application or request for authorization to place, construct, or modify personal wireless service facilities.

l. *Temporary wireless facilities* means portable wireless facilities intended or used to provide personal wireless services on a temporary or emergency basis, such as a large-scale special event in which more users than usual gather in a confined location or when a disaster disables permanent wireless facilities. Temporary wireless facilities include, without limitation, cells-on-wheels ("COWs"), sites-on-wheels ("SOWs"), cells-on-light-trucks ("COLTs") or other similarly portable wireless facilities not permanently affixed to site on which is located.

m. *Tower* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(9), as may be amended or superseded.

n. *Transmission equipment* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(8), as may be amended or superseded. (Ord. #2018-07, § 2)

32-70.4 Applicability and Exemptions.

a. *Applicable Wireless Facilities.* Except as expressly provided otherwise in this chapter, the provisions in this chapter shall be applicable to all existing wireless facilities and all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate or otherwise deploy wireless facilities within the Town's jurisdictional and territorial boundaries, on private property and within the public rights-of-way.

b. *Exemptions.* Notwithstanding section 32-70.4.a, the provisions in this chapter will not be applicable to: (1) wireless facilities owned and operated by the Town for public purposes; (2) wireless facilities installed on Town-owned support structures or other personal property in the public rights-of-way pursuant to a valid master license agreement with the Town; (3) amateur radio facilities; (4) OTARD antennas; and (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.

c. *Special Provisions for Section 6409 Approvals.* Notwithstanding section 32-70.4.a, all requests for approval to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to Section 6409 will be reviewed under the application procedures in section 32-70.6 and the standards in section 32-70.13. A Land Use Permit under section 32-70.5 is not required for any request that qualifies for approval pursuant to Section 6409 under the standards in section 32-70.13. To the extent that the applicant's request does not qualify for approval under Section 6409, the applicant may submit the same or a substantially similar application for a Land Use Permit under the general provisions in this chapter.

d. *Special provisions for Small Wireless Facilities in the Public Right-of-Way.* Notwithstanding any other provision of this chapter, including any exemption under section 32-70.4.b, all small wireless facilities as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded, located in the public right-of-way are subject to a permit as specified in a Town Council policy to be adopted and amended by Town Council resolution. All small wireless facilities in the public right-of-way shall comply with the Town Council's policy. If the policy is repealed, an application for a small wireless facility in the public right-of-way shall be processed pursuant to this chapter.(Ord. #2018-07, § 2; Ord. #2019-03, § 2)

32-70.5 General Permit Requirements.

a. *Land Use Permit - Administrative Review.* A Land Use Permit, subject to the Chief of Planning's prior review and approval in accordance with the procedures and design regulations in this chapter, is required for:

1. Any wireless facility proposed on private property in a preferred location (as specified in section 32-70.7.a) and that would be compliant with all applicable development standards in section 32-70.7; and

2. Any wireless facility proposed to be located in the public rights-of-way that would be compliant with all applicable development standards in section 32-70.7 b-c.

b. *Land Use Permit - Public Hearing Review.* A Land Use Permit, subject to the Planning Commission's prior review and approval in accordance with the procedures and design regulations in this chapter, is required for:

1. Any wireless facility proposed on private property located in or within 250 feet from a residential district;

2. Any wireless facility that requires a limited exception pursuant to section 32-70.9.c;

3. Any wireless facility subject to an administrative review process but that has been referred to the Planning Commission by the Chief of Planning; and

4. Any wireless facility not identified as subject to an administrative review process in section32-70.5.a.

c. *Major Ridgeline and Scenic Hillside Areas.* Any wireless facility proposed within any area identified by the Town as a Major Ridgeline or Scenic Hillside shall be subject to the review provisions in the Town's Major Ridgeline or Scenic Hillside Ordinance (Ordinance No. 29-84), as may be amended or superseded.

d. *Architectural Review.* Any architectural addition to accommodate or conceal transmission equipment proposed within the Downtown Business District shall be subject to the architectural review provisions in the Town's Downtown Business District Ordinance (Ordinance No. 96-08), as may be amended or superseded.

e. *Temporary Wireless Permit.* A temporary wireless permit, subject to the Chief of Planning's prior review and approval in accordance with the procedures and standards in section 32-70.11, is required for any temporary wireless facility, unless deployed in connection with an emergency pursuant to section 32-70.11.b.

f. *Other Permits and Regulatory Approvals.* In addition to any permit or approval required under this chapter, the applicant must obtain all other permits and regulatory approvals (such as compliance with the California Environmental Quality Act) as may be required by any other federal, state or local government agencies, which includes without limitation other any permits and/or approvals issued by other Town departments or divisions. Furthermore, any permit or approval granted under this chapter or deemed granted or deemed approved by law shall remain subject to any and all lawful conditions and/ or legal requirements associated with such other permits or approvals. (Ord. #2018-07, § 2)

32-70.6 Applications.

a. *Application Required.* The approval authority shall not approve any request to place, construct or modify any wireless facility except upon a complete and duly filed application consistent with this section 32-70.6 and any other written rules the Town or the Chief of Planning may establish from time to time in any publicly-stated format.

b. *Application Content.* All applications for a Land Use Permit or section 6409 approval (as that term is defined in section 32-70.13) must include all the information and materials required by the Chief of Planning for the application. The Town Council authorizes the Chief of Planning to develop, publish and from time to time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the Chief of Planning finds necessary, appropriate or useful for processing any application governed under this chapter. All applications shall, at a minimum, require the applicant to demonstrate that the proposed project will be in planned compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes and all FCC rules for human exposure to RF emissions. All applications for wireless facilities in the public rights-of-way shall also contain sufficient evidence (such as a valid CPCN) of the applicant's regulatory status as a telephone corporation under the California Public Utilities Code. The Town Council further authorizes the Chief of Planning to establish other reasonable rules and regulations, which may include without limitation regular hours for appointments with applicants, as the Chief of Planning deems necessary or appropriate to organize, document and manage the application intake process. All such rules and regulations must be in written form and publicly stated to provide applicants with prior notice.

c. *Procedures for a Duly Filed Application.* Any application for a Land Use Permit or section 6409 approval will not be considered duly filed unless submitted in accordance with the procedures in this section 32-70.6.c.

1. *Pre-Submittal Conference.* Before either planning or building application submittal, the applicant must schedule and attend a pre-submittal conference with the Chief of Planning for all proposed projects that: (1) require Planning Commission approval; (2) involve more than five wireless facilities in the public right-of-way; (3) involve any wireless facilities proposed to be located in the public rights-of-way in or within 250 feet from a residential district; or (4) involve a Section 6409 collocation, modification or other change to an existing camouflaged or concealed facility. Pre-submittal conferences for all other proposed projects are strongly 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 Town departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that Town staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable. The Planning Division shall use reasonable efforts to provide the applicant with an appointment within five working days after receiving a written request and any applicable fee or deposit to reimburse the Town for its reasonable costs to provide the services rendered in the pre-submittal conference.

2. *Submittal Appointment.* All applications must be submitted to the Town at a pre-scheduled appointment with the Chief of Planning. Applicants may generally submit one application per appointment, but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. The Chief of Planning shall use reasonable efforts to provide the applicant with an appointment within five working days after the Chief of Planning receives a written request and, if applicable, confirms that the applicant complied with the pre-submittal conference requirement. Any application received without an appointment, whether delivered in-person, by mail or through any other means, will not be considered duly filed unless the applicant received a written exemption from the Chief of Planning at a pre-submittal conference.

d. *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 Planning Division within 90 calendar days after the Chief of Planning deems the application incomplete in a written notice to the applicant. The Chief of Planning may, in the Chief of Planning's discretion, grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 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.

e. *Peer and Independent Consultant Review.* The Town Council authorizes the Chief of Planning to, in the Chief of Planning's discretion, select and retain an independent consultant with specialized training, experience and/or expertise in telecommunications issues satisfactory to the Chief of Planning in connection any permit application. The Chief of Planning may request an independent consultant review on any issue that involves specialized or expert knowledge in connection with wireless facilities deployment or permit applications for wireless facilities, which include without limitation:

1. permit application completeness and/or accuracy;
2. pre-construction planned compliance with applicable regulations for human exposure to RF emissions;
3. post-construction actual compliance with applicable regulations for human exposure to RF emissions.
4. whether and to what extent a proposed project will address a gap in the applicant's wireless services;

5. whether and to what extent any technically feasible and/or potentially available alternative sites or concealment techniques may exist;

6. the applicability, reliability and/ or sufficiency of any information, analyses or methodologies used by the applicant to reach any conclusions about any issue with the Town's discretion to review;

7. any other issue identified by the Chief of Planning that requires expert or specialized knowledge.

f. The Chief of Planning may request that the independent consultant prepare written reports, testify at public meetings, hearings and/or appeals and attend meetings with Town staff and/or the applicant. In the event that the Chief of Planning elects to retain an independent consultant in connection with any permit application, the applicant shall be responsible for the reasonable costs in connection with the services provided, which may include without limitation any costs incurred by the independent consultant to attend and participate in any meetings or hearings. Before the independent consultant may perform any services, the applicant shall tender to the Town a deposit in an amount equal to the estimated cost for the services to be provided, as determined by the Chief of Planning. The Chief of Planning may request additional deposits as reasonably necessary to ensure sufficient funds are available to cover the reasonable costs in connection with the independent consultant's services. In the event that the deposit exceeds the total costs for consultant's services, the Chief of Planning shall promptly return any unused funds to the applicant after the wireless facility has been installed and passes a final inspection by the Building Official or his or her designee. In the event that the reasonable costs for the independent consultant's services exceed the deposit, the Chief of Planning shall invoice the applicant for the balance. The Town shall not issue any construction or grading permit to any applicant with any unpaid deposit requests or invoices. (Ord. #2018-07, § 2)

32-70.7 Development Standards.

a. *Preferred Locations.* When evaluating an application for a Land Use Permit for compliance with this chapter, the approval authority will take into account whether any or more preferred locations are technically feasible and potentially available. Any locations within the downtown business district, within 250 feet from a residential dwelling, attached to a decorative light standard or otherwise not listed below in this section 32-70.7 shall be considered "discouraged." All applicants for a Land Use Permit must propose new wireless facilities in locations according to the following preferences, ordered from most preferred to least preferred:

1. Private property and existing or replacement structures in the public rights-of-way outside the downtown business district and not within 250 feet from a residential dwelling;

2. Private property and existing or replacement structures in the public rights-of-way within general open space districts and not within 250 feet from a residential dwelling;

3. Private property and existing or replacement structures in the public rights-of-way within public and semi-public districts and not within 250 feet from a residential dwelling;

4. New, non-replacement structures in the public rights-of-way within general open space districts and not within 250 feet from a residential dwelling; and

5. New, non-replacement structures in the public rights-of-way within public and semi-public districts and not within 250 feet from a residential dwelling.

6. Existing or replacement structures in the public rights-of-way on major arterial streets not within 125 feet of a residential dwelling;

7. New, non-replacement structures in the public rights-of-way on major arterial streets not within 125 feet of a residential dwelling.

b. *General Development Standards.* All new wireless facilities and collocations, modifications or other changes to existing wireless facilities that require a Land Use Permit under this chapter must conform to the generally applicable development standards in this section 32-70.7.b.

1. *Concealment.* All wireless facilities must be concealed to the maximum extent feasible with design elements and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses. In addition, wireless facilities in the public rights-of-way may not unreasonably subject the public use, for any purpose including expressive or aesthetic purposes, to inconvenience, discomfort, trouble, annoyance, hindrance, impediment or obstruction.

2. *Overall Height.* All wireless facilities must be compliant with the maximum height limits applicable in the subject land use district; provided, however, that (1) completely stealth wireless facilities on private property in a preferred location may exceed the maximum height limit by not more than 10 feet; (2) concealed wireless facilities in the public rights-of-way on poles with electrical lines may exceed the maximum height limit by not more than the minimum separation from electrical lines required by CPUC General Order 95, plus four feet; and (3) concealed wireless facilities in the public rights-of-way on poles without electrical lines may exceed the maximum height limit by not more than four feet.

3. *Setbacks.* Wireless facilities on private property must be compliant with all setback requirements applicable in the subject land use district.

4. *Noise.* Wireless facilities and all transmission equipment must comply with all noise regulations and shall not exceed, either individually or cumulatively, such regulations. The approval authority may require the applicant to incorporate appropriate noise-baffling materials and/ or strategies to avoid any ambient noise from equipment reasonably likely to exceed the applicable noise regulations.

5. *Landscaping.* All wireless facilities must include landscape features and a landscape maintenance plan when proposed to be placed in a landscaped area. The approval authority may require additional landscape features to screen the wireless facility from public view, avoid or mitigate potential adverse impacts on adjacent properties or otherwise enhance the concealment required under this

section 32-70.7.b.l0. All plants proposed or required must be native and/or drought-resistant.

6. *Site Security Measures.* Wireless facilities may incorporate reasonable and appropriate site security measures, such as locks and anti-climbing devices, to prevent unauthorized access, theft or vandalism. All wireless facilities shall be constructed from graffiti-resistant materials. The approval authority may require additional concealment elements as the approval authority finds necessary to blend the security measures and other improvements into the natural and/ or built environment. The approval authority shall not approve barbed wire, razor ribbon, electrified fences or any similar security measures.

7. *Backup Power Sources.* The approval authority may not approve permanent backup power sources within the public rights-of-way that emit noise or exhaust fumes.

8. *Lights.* Wireless facilities may not include exterior lights other than as may be required under FAA, FCC, other applicable governmental regulations or applicable pole owner policies related to public or worker safety. All exterior lights permitted or required to be installed must be installed in locations and within enclosures that mitigates illumination impacts on other properties to the maximum extent feasible. Any lights associated with the electronic equipment shall be appropriately shielded from public view. The provisions in this subsection shall not be interpreted to prohibit installations on street lights or the installation of luminaires on new poles when required by the approval authority.

9. *Signage; Advertisements.* All wireless facilities must include signage that accurately identifies the equipment owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. Wireless facilities may not bear any other signage or advertisements unless expressly approved by the Town, required by law or recommended under FCC or other United States governmental agencies for compliance with RF emissions regulations.

10. *Future Collocations and Expansions.* To the extent feasible and aesthetically desirable, all new wireless facilities should be designed and sited in a manner that accommodates potential future collocations and equipment installations that can be integrated into the proposed wireless facility or its associated structures with no or negligible visual changes to the outward appearance. The approval authority may waive the requirements in this section 32-70.7.b.10 when the approval authority determines future collocations at a proposed wireless facility would be aesthetically undesirable.

11. *Utilities.* All cables and connectors for telephone, primary electric and other similar utilities must be routed underground to the extent feasible in conduits large enough to accommodate future collocated wireless facilities. To the extent feasible, undergrounded cables and wires must transition directly into the pole base without any external doghouse. Meters, panels, disconnect switches and other associated improvements must be placed in inconspicuous locations to the extent possible. The approval authority shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost. Microwave or other wireless backhaul is discouraged when it would involve a separate and unconcealed antenna.

12. *Compliance with Laws.* All wireless facilities must be designed and sited in compliance with all applicable federal, state and local laws, regulations, rules, restrictions and conditions, which includes without limitation the California Building Standards Code, Americans with Disabilities Act, General Plan and any applicable specific plan, the Danville Municipal Code and any conditions or restrictions in any permit or other governmental approval issued by any public agency with jurisdiction over the project.

13. *Public Safety.* All wireless facilities shall not interfere with access to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure or any other public health or safety facility. No person shall install, use or maintain any facilities, which in whole or in part rest upon, in or over any public right-of-way, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facilities unreasonably interfere with or unreasonably impede the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near the location where the wireless facilities are located.

c. *Design Guidelines.* The Chief of Planning may develop, and from time to time amend, design guidelines consistent with the generally applicable design regulations to clarify the aesthetic and public safety goals and standards in this chapter for Town staff, applicants and the public. The design guidelines shall provide more detailed standards to implement the general principals articulated in this section 32-70.7, and may include specific standards for particular wireless facilities or site locations, but shall not unreasonably discriminate between functionally equivalent service providers. The design guidelines, and any subsequent amendments, shall not be effective unless approved by a resolution adopted by the Planning Commission. In the event that a conflict arises between the development standards specified in this chapter and the design guidelines adopted under this section 32-70.7.C, the development standards specified in this chapter shall control. (Ord. #2018-07, § 2)

32-70.8 Notices.

a. *General Notice Requirements.* Except as provided in section 32-70.8.b, public notice in accordance with Danville Municipal Code § 32-4.9 shall be given for all applications for a Land Use Permit governed under this chapter.

b. *Deemed-Approval Notice.* Not more than 30 days before the applicable shot clock expires, and in addition to any public notice required prior to a decision, an applicant for a Land Use Permit must provide a posted notice at the project site that contains (1) a statement the project will be automatically deemed approved pursuant to California Government Code § 65964.1 unless the Town approves or denies the application or the applicant voluntarily agrees to toll the timeframe for review within the next 30 days; (2) a general description for the proposed project; (3) the applicant's name and contact information as provided on the application submitted to the Town; and (4) contact information for the Planning Division. The public notice required under this section 32-70.8.C will be deemed given when the applicant delivers written notice to the Planning Division that shows the appropriate notice has been posted at the project site. Notwithstanding anything to the contrary in this chapter, the approval authority shall be permitted to act on an application for a Land Use Permit at any time so long as any applicable prior public notice in this section 32-70.8.C has occurred.

c. *Decision Notice.* Within five calendar days after the approval authority acts on a Land Use Permit application governed under this chapter or before the shot clock expires (whichever occurs first), the approval authority or its designee shall send a written notice to the applicant. In the event that the approval authority denies the application (with or without prejudice), the written notice to the applicant must contain (1) the reasons for the decision and (2) instructions for how and when to file an appeal. (Ord. #2018-07, § 2)

32-70.9 Decisions and Appeals.

a. *Required Findings.* The approval authority may approve or conditionally approve an application for a Land Use Permit submitted under this chapter when the approval authority finds all of the following:

1. The approval authority can make all the findings required for a Land Use Permit in accordance with Danville Municipal Code § 32-3.5;

2. The proposed wireless facility complies with all applicable development standards in section 32-70.7 and any applicable provisions in the Town's design guidelines; and

3. The applicant has demonstrated that its proposed wireless facility will be in compliance with all applicable FCC regulations and guidelines for human exposure to RF emissions; and

4. The applicant has proposed to place the wireless facility in the most-preferred location or, if the wireless facility is not proposed in the most-preferred location, the applicant has demonstrated a good-faith effort to identify and evaluate more-preferred alternative locations through a meaningful comparative analysis; and

5. The applicant has provided the approval authority with a meaningful comparative analysis that shows all more-preferred alternative designs identified in the administrative record are either technically infeasible or unavailable.

b. Conditional Approvals; Denials without Prejudice. Subject to any applicable federal or California laws, nothing in this chapter is intended to limit the approval authority's ability to conditionally approve or deny without prejudice any Land Use Permit application governed under this chapter as may be necessary or appropriate to protect and promote the public health, safety and welfare, and to advance the goals or policies in the General Plan and any specific plan, the Danville Municipal Code and/ or this chapter.

c. *Limited Exception.* In the event that an applicant claims that strict compliance with the development standards in section 32-70.7 would effectively prohibit the applicant's ability to provide personal wireless services, the Planning Commission may grant a limited exception from such requirements in accordance with this section 32-70.C.

1. *Required Findings for a Limited Exception.* The Planning Commission shall not grant any limited exception unless the applicant shows that:

i. The proposed wireless facility qualifies as a "personal wireless service facility" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), as may be amended or superseded;

ii. The applicant has provided the Planning Commission with a reasonable and clearly defined technical service objective to be achieved by the proposed wireless facility;

iii. The applicant has provided the Planning Commission with a written statement that contains a detailed and fact-specific explanation as to why the proposed wireless facility cannot be deployed in compliance with the applicable provisions in this chapter;

iv. The applicant has provided the Planning Commission with a meaningful comparative analysis with the factual reasons why all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant, the Town, public comments or any other source) 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 facility; and

v. The applicant has demonstrated to the Planning Commission 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 facility, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive wireless facilities dispersed throughout the intended service area.

2. *Scope.* Any limited exception shall be narrowly tailored to ensure that any deviations from the development standards in section 32-70.7 are no greater than necessary to avoid an effective prohibition of the applicant's personal wireless services. Limited exceptions shall be based on the facts and circumstances of the applicant, its demonstrated technical service objectives at the time the exception is granted and the proposed wireless facility, and shall not be deemed to establish any precedent for similar deviations for the same or any other applicant, location or wireless facility.

d. *Appeals.* Within ten (10) days after the approval authority approves or denies any application for a Land Use Permit, any interested person may file an appeal for cause in accordance with the provisions in Danville Municipal Code § 32-4.7; provided, however, that appeals from an approval shall not be permitted when based solely on the environmental effects from radio frequency emissions that are compliant with applicable FCC regulations and guidelines. (Ord. #2018-07, § 2)

32-70.10 Standard Conditions.

a. *Conditions Adopted by Town Council Resolution.* The Town Council may, either on its own motion or upon a recommendation from the Chief of Planning, adopt by resolution standard conditions of approval for wireless facilities subject to this chapter. All wireless facilities, whether approved by the approval authority or deemed approved or deemed granted by law shall be automatically subject to all such standard conditions of approval as may be adopted in a resolution by the Town Council.

b. *Modifications to Standard Conditions.* The approval authority (or the appellate authority) shall have discretion to modify or amend

any standard conditions of approval on a case-by-case basis as may be necessary or appropriate to protect and promote the public health, safety and welfare, allow for the proper operation of the approved wireless facility, maintain compliance with applicable laws and/or to advance the goals or policies in the General Plan and any specific plan, the Danville Municipal Code and/or this chapter. (Ord. #2018-07, § 2)

32-70.11 Temporary Wireless Facilities.

a. *Non-Emergency Temporary Wireless Facilities.* Except as provided in section 32-70.11.b, the requirements, procedures and standards in this section shall be applicable to all applications for a Temporary Use Permit for a temporary wireless facility.

1. Administrative Review. A duly filed application shall be reviewed for completeness. After the Chief of Planning deems the application complete, the Chief of Planning shall review the application for conformance with the required findings and render a written decision to the applicant. Any denials must include the reasons for the denial. The review shall be administrative in nature and shall not require notice or a public hearing.

2. *Required Findings.* The Chief of Planning may approve or conditionally approve a Temporary Use Permit for a temporary wireless facility only when the Chief of Planning finds:

i. The proposed temporary wireless facility will not exceed the overall zone height limit of the zoning district in which it is located;

ii. The proposed temporary wireless facility complies with all setback requirements applicable to the proposed location;

iii. The proposed temporary wireless facility will not involve any excavation or ground disturbance;

iv. The proposed temporary wireless facility will be compliant with all generally applicable public health and safety laws and regulations, which include without limitation maximum permissible exposure limits for human exposure to RF emissions established by the FCC;

v. The proposed temporary wireless facility will not create any nuisance or violate any noise limits applicable to the proposed location;

vi. The proposed temporary wireless facility will be identified with a sign that clearly identifies the (i) site operator, (ii) the operator's site identification name or number and (iii) a working telephone number answered 24 hours per day, seven days per week by a live person who can exert power-down control over the antennas;

vii. The proposed wireless temporary wireless facility will be removed within 30 days after the Chief of Planning grants the temporary use permit, or such longer time as the Chief of Planning finds reasonably related to the applicant's need or purpose for the temporary wireless facility (but in no case longer than one year); and

viii. The applicant has not been denied an approval for any permanent wireless facility in substantially the same location within the previous 365 days.

3. *Appeals.* Any applicant may appeal the Chief of Planning's written decision to deny an application for a Temporary Use Permit for a temporary wireless facility. The written appeal together with any applicable appeal fee must be tendered to the Town within 10 days from the Chief of Planning's written decision, and must state in plain terms the grounds for reversal and the facts that support those grounds. The Town Manager shall be the appellate authority. The Town Manager shall issue a written decision that contains the reasons for the decision, and such decision shall be final and not subject to any further administrative appeals.

b. *Emergency Temporary Wireless Facilities.* Temporary wireless facilities may be placed and operated within the Town without a Temporary Use Permit only when a duly authorized federal, state, county or Town official declares an emergency within a region that includes the Town in whole or in part. Any temporary wireless facilities placed must be removed within five days after the date the emergency is lifted. Any person or entity that places temporary wireless facilities pursuant to this section 32-70.11.b must send a written notice that identifies the site location and person responsible for its operation to the Chief of Planning as soon as reasonably practicable under the circumstances. (Ord. #2018-07, § 2)

32-70.12 Amortization of Nonconforming Wireless Facilities

Any nonconforming wireless facilities in existence at the time this chapter becomes effective must be brought into conformance with this chapter in accordance with the amortization schedule in this section 32-70.12. As used in this section, the "fair market value" will be the construction costs listed on the building permit or application for the subject wireless facility and the "minimum years" allowed will be measured from the date on which this chapter becomes effective.

Fair Market Value Minimum Years Allowed on Effective Date

Less than $50,000 5

$50,000 to $500,000 10

Greater than $500,000 15

The Chief of Planning may grant a written extension to a date certain when the wireless facility owner shows (1) a good faith effort to cure non-conformance; (2) the application of this section would violate applicable laws; or (3) extreme economic hardship would result from strict compliance with the amortization schedule. Any extension must be the minimum time period necessary to avoid such extreme economic hardship. The Chief of Planning may not grant any permanent exemption from this section.

Nothing in this section is intended to limit any permit term to less than ten (10) years. In the event that the amortization required in this section would reduce the permit term to less than 10 years for any permit granted on or after January 1, 2007, then the minimum years allowed will be automatically extended by the difference between 10 years and the number of years since the Town granted such permit. Nothing in this section is intended or may be applied to prohibit any collocation or modification covered under 47 U.S.C. § 1455(a) on the basis that the subject wireless facility is a legal nonconforming wireless facility. (Ord. #2018-07, § 2)

32-70.13 Special Provisions for Section 6409 Approvals.

a. *Applicability.* Notwithstanding anything to the contrary in this chapter, this section 32-70.13 applies to all requests for approval to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to Section 6409. However, the applicant may voluntarily elect to seek a Land Use Permit under section 32-70.5.

b. *Additional Section 6409 Definitions.* In addition to the definitions in section 32-70.3, the abbreviations, phrases, terms and words used in this section 32-70.13 will have the following meanings assigned to them unless context indicates otherwise. Undefined phrases, terms or words in this section will have the meanings assigned to them in 47 U.S.C. § 153, as may be amended from time to time and, if not defined therein, will have their ordinary meanings. In the event that any definition assigned to any phrase, term or word in this section conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control.

1. *Collocation* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(2), as may be amended.

2. *Eligible facilities request* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(3), as may be amended.

3. *Eligible support structure* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(4), as may be amended.

4. *Existing* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(4), as may be amended.

5. Site means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(6), as may be amended.

6. *Substantial change* means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(7), as may be amended.

c. *Required Approval.* Any request to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted with a written request for approval under Section 6409 shall require an approval in such form determined by the Chief of Planning consistent with all valid and enforceable terms and conditions of the underlying permit or other prior regulatory authorization for the tower or base station (each amendment a "section 6409 approval"). Each section 6409 approval shall be subject to the Chief of Planning's approval, conditional approval or denial without prejudice pursuant to the standards and procedures in this section 32-70.13. However, the applicant may voluntarily elect to seek a major or minor wireless permit subject to the general standards and procedures in this chapter.

d. *Decisions; Appeals.*

1. *Administrative Review.* The approval authority shall review a complete and duly filed application for a section 6409 approval, and may act on such application without prior notice or a public hearing.

2. *Decision Notices for Denials.* In the event that the approval authority denies the application, the written notice to the applicant must contain (1) the reasons for the decision; (2) a statement that denial will be without prejudice; and (3) instructions for how and when to file an appeal.

3. *Required Findings for Approval.* The approval authority may approve or conditionally approve an application any application for a section 6409 approval when the approval authority finds that the proposed project:

i. Involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and

ii. Does not substantially change the physical dimensions of the existing wireless tower or base station.

4. Criteria for Denial without Prejudice. Notwithstanding any other provision in this chapter, and consistent with all applicable federal laws and regulations, the approval authority may deny without prejudice any application for a section 6409 approval when the approval authority finds that the proposed project:

i. Does not meet the findings required in section 32-70.13.d.3;

ii. Involves the replacement of the entire support structure; or

iii. Violates any legally enforceable law, regulation, rule, standard or permit condition reasonably related to public health or safety.

4. *Conditional Approvals.* Subject to any applicable limitations in federal or state law, nothing in this section 32-70.13 is intended to limit the approval authority's authority to conditionally approve an application for a section 6409 approval to protect and promote the public health and safety.

5. *Appeals.* Any applicant may appeal the approval authority's written decision to deny without prejudice an application for section 6409 approval. The written appeal together with any applicable appeal fee must be tendered to the City Clerk within ten calendar days from the approval authority's written decision, and must state in plain terms the grounds for reversal and the facts that support those grounds. The Town Manager shall be the appellate authority for all appeals from the approval authority's written decision to deny without prejudice an application for section 6409 approval. The Town Manager shall review the application de novo without notice or a public hearing; provided, however, that the Town Manager's decision shall be limited to only whether the application should be approved or denied in accordance with the provisions in this section 32-70.13 and any other applicable laws. The Town Manager shall issue a

written decision that contains the reasons for the decision, and such decision shall be final and not subject to any further administrative appeals. (Ord. #2018-07, § 2)

32-71 REASONABLE ACCOMMODATION.

32-71.1 Purpose.

a. It is the Town's policy to provide individuals with disabilities reasonable accommodation in regulations and procedures to ensure equal access to housing, and to facilitate the development of housing. The purpose of this chapter is to provide a procedure under which a disabled person may request a reasonable accommodation in the application of zoning requirements.

b. This chapter is based on requirements of the federal and state fair housing laws, and implements the Housing Element of the General Plan. It is distinct from the requirements for a variance set forth in Government Code Section 65906 and Danville Municipal Code Section 32-3.12, Variance.

(Ord. #2014-09, § 1; Ord. 2015- 08, § 1)

32-71.2 Definitions.

In this chapter:

Disabled person means a person who has a medical, physical or mental condition that limits a major life activity (as those terms are defined in California Government Code Section 12926), anyone who is regarded as having such a condition or anyone who has a record of having such a condition. It includes a person or persons, or an authorized representative of a disabled person. The term "disabled person" does not include a person who is currently using illegal substances, unless he or she has a separate disability. (42 U.S.C. § 3602(h).)

Fair housing laws means (1) the Federal Fair Housing Act (42 U.S.C. § 3601 and following) and (2) the California Fair Employment and Housing Act (Government Code Section 12955 and following), including amendments to them.

Reasonable accommodation means providing disabled persons flexibility in the application of land use and zoning regulations and procedures, or even waiving certain requirements, when necessary to eliminate barriers to housing opportunities. It may include such things as yard area modifications for ramps, handrails or other such accessibility improvements; hardscape additions, such as widened driveways, parking area or walkways; building additions for accessibility; tree removal; or reduced off-street parking where the disability clearly limits the number of people operating vehicles. Reasonable accommodation does not include an accommodation that would (1) impose an undue financial or administrative burden on the Town or (2) require a fundamental alteration in the nature of the Town's land use and zoning program. (Government Code Section 12927(c)(1), (1) and Section 12955(1); 42 U.S.C. § 3604(f)(3)(B); 28 C.F.R. § 35.150 (a)(3).)

(Ord. #2014-09, § 1; Ord. 2015-08, § 1)

32-71.3 Requesting Reasonable Accommodation.

a. *Request.* A disabled person may request a reasonable accommodation in the application of the Town's land use and zoning regulations. Such a request may include a modification or exception to the requirements for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers. A reasonable accommodation cannot waive a requirement for a conditional use permit when otherwise required or result in approval of uses otherwise prohibited by the Town's land use and zoning regulations.

b. *Availability of information.* Information regarding this reasonable accommodation procedure shall be prominently displayed at the public information counters in the Planning Division, advising the public of the availability of the procedure for eligible applicants, and be made available in any other manner as determined by the Chief of Planning.

c. *Assistance.* If an applicant needs assistance in making the request, the Planning Division will endeavor to provide the assistance necessary to ensure that the process is available to the applicant.

d. *Balancing rights and requirements.* The Town will attempt to balance (1) the privacy rights and reasonable request of an applicant for confidentiality, with (2) the land use requirements for notice and public hearing, factual findings and rights to appeal, in the Town's requests for information, considering an application, preparing written findings and maintaining records for a request for reasonable accommodation.

(Ord. #2014-09, § 1; Ord. 2015- 08, § 1)

32-71.4 Application Requirements.

a. *Application.* The applicant shall submit a request for reasonable accommodation on a form provided by the Planning Division. The application shall include the following information:

1. The applicant's name, address and telephone number;
2. Address of the property for which the request is being made;
3. The name and address of the property owner, and the owner's written consent to the application;
4. The current actual use of the property;
5. The basis for the claim that the individual is considered disabled under the fair housing laws: identification and description of the

disability which is the basis for the request for accommodation, including current, written medical certification and description of disability and its effects on the person's medical, physical or mental limitations;

6. The rule, policy, practice and/or procedure of the Town for which the request for accommodation is being made, including the Zoning Code regulation from which reasonable accommodation is being requested;

7. The type of accommodation sought;

8. The reason(s) why the accommodation is reasonable and necessary for the needs of the disabled person(s). Where appropriate, include a summary of any potential means and alternatives considered in evaluating the need for the accommodation;

9. Copies of memoranda, correspondence, pictures, plans or background information reasonably necessary to reach a decision regarding the need for the accommodation; and

10. Other supportive information deemed necessary by the department to facilitate proper consideration of the request, consistent with fair housing laws.

b. *Review with other land use applications.* If the project for which the reasonable accommodation is being requested also requires some other discretionary approval (such as a land use permit, development plan, general plan amendment, rezoning, subdivision map), then the applicant shall submit the reasonable accommodation application first for a determination by the Chief of Planning, before proceeding with the other applications.

c. *Fee.* The fee for an application for reasonable accommodation shall be established by resolution of the Town Council. However, an applicant may submit written information documenting financial hardship and the Chief of Planning may reduce or waive the established fee based on financial hardship.

(Ord. #2014-09, § 1; Ord. 2015- 08, § 1)

32-71.5 Approval Authority; Notice; Decision.

a. *Approval authority.*

1. *Chief of Planning.* The Chief of Planning has the authority to review and decide upon requests for reasonable accommodation, including whether the applicant is a disabled person within the meaning of this section, or when a reasonable accommodation request includes an encroachment into the required minimum yard setback areas, maximum height requirements, or whenever a reduction in required parking is requested. The Chief of Planning may refer the matter to the Planning Commission or to the Design Review Board if the proposed accommodation is visible from the street fronting the property.

2. *Planning Commission.* Upon referral by the Chief of Planning or an appeal of the Chief of Planning's action, the Planning Commission has the authority to review and decide upon requests for reasonable accommodation, including whether the applicant is a disabled person within the meaning of this section, or when a reasonable accommodation request includes an encroachment into the required minimum yard setback areas, maximum height requirements, or whenever a reduction in required parking is requested.

b. *Notice.* No advance notice or public hearing is required for consideration of reasonable accommodation requests by the Chief of Planning. Requests for reasonable accommodation subject to review by the Planning Commission require advance notice and a public hearing pursuant to the requirements of Danville Municipal Code subsection 30-3.3.

c. *Decision.* The Chief of Planning shall render a decision or refer the matter to the Planning Commission within 30 days after the application is complete, and shall approve, approve with conditions or deny the application, based on the findings set forth in Danville Municipal Code subsection 32-71.6. The decision shall be in writing and mailed to the applicant and to all residents and property owners within 350 feet of the project site.

1. If the application for reasonable accommodation involves another discretionary decision, the reviewing body for that decision shall accept as final the Chief of Planning's determination regarding reasonable accommodation, unless the reasonable accommodation request has been referred by the Chief of Planning to the Planning Commission for consideration.

2. If the application for reasonable accommodation is referred to, or reviewed by, the Planning Commission, a decision to approve, approve with conditions or deny the application shall be rendered at the conclusion of the Planning Commission's deliberations, based on the findings set forth in Danville Municipal Code subsection 32-71.6.

(Ord. #2014-09, § 1; Ord. 2015-08, § 1)

32-71.6 Findings; Other Requirements.

a. *Findings.* The reviewing authority shall approve the application, with or without conditions, if it can make the following findings:

1. The housing will be used by a disabled person;

2. The requested accommodation is necessary to make specific housing available to a disabled person;

3. The requested accommodation would not impose an undue financial or administrative burden on the Town; and

4. The requested accommodation would not require a fundamental alteration in the nature of a Town program or law, including land use and zoning.

b. *Other requirements.*

1. An approved request for reasonable accommodation is subject to the applicant's compliance with all other applicable zoning

regulations.

2. A modification approved under this chapter is considered a personal accommodation for the individual applicant and does not run with the land.

3. Where appropriate, the reviewing authority may condition its approval on any or all of the following:

(a) Inspection of the property periodically, as specified, to verify compliance with this section and any conditions of approval;

(b) Removal of the improvements, where removal would not constitute an unreasonable financial burden, when the need for which the accommodation was granted no longer exists;

(c) Time limits and/or expiration of the approval if the need for which the accommodation was granted no longer exists;

(d) Recordation of a deed restriction requiring removal of the accommodating feature once the need for it no longer exists;

(e) Measures to reduce the impact on surrounding uses;

(f) Measures in consideration of the physical attributes of the property and structures;

(g) Other reasonable accommodations that may provide an equivalent level of benefit and/or that will not result in an encroachment into required setbacks, exceedance of maximum height or the reduction of required on-site parking; and

(h) Other conditions necessary to protect the public health, safety and welfare.

(Ord. #2014-09, § 1; Ord. 2015-08, § 1)

32-71.7 Appeal.

A decision by the Chief of Planning may be appealed to the Planning Commission and a decision of the Planning Commission may be appealed to the Town Council in accordance with the appeal procedures of Danville Municipal Code Section 32-7.

(Ord. #2014-09, § 1; Ord. #2015-08, § 1)

32-72 HISTORIC PRESERVATION.

32-72.1 Purpose and Findings.

a. Danville has a rich heritage that reflects the Town's role in the development of the San Ramon Valley. This heritage is reflected in individual structures and sites as well as historic development patterns, particularly in the Downtown area. In recognition of this historic heritage, the Town's General Plan establishes a goal of preserving historic and cultural resources within the Town and recognizing such resources as an essential part of the Town's heritage. In order to achieve that goal, the Town's General Plan contains a number of policies, including:

1. Ensuring that the rehabilitation and restoration of historic buildings respects the historic character and setting of the buildings.

2. Ensuring that new construction within the Downtown area is compatible with nearby historic buildings and is consistent with the historic development patterns of the Downtown.

3. Ensuring that owners of historic buildings and sites are aware of and provided with appropriate financial and use incentives to ensure the continued economic viability and usefulness of those buildings.

4. Promoting public awareness and enjoyment of historic resources within Danville.

b. The Town Council finds that adopting this chapter will help achieve the goals and policies of the General Plan, that historic preservation will help ensure the economic vitality of the Downtown area, help preserve property values throughout Town and enrich the cultural and educational lives of the Town's residents.

c. Pursuant to this chapter, the Town will adopt a survey of historically significant resources. Those properties identified as historically significant resources will receive protection from demolition or exterior alterations. In addition, property owners may request that their properties be designated as heritage resources, which are eligible for economic and land use incentives.

(Ord. # 2001-02, §2)

32-72.2 Definitions.

As used in this chapter, the following words and phrases have the following meanings:

Alteration means any demolition, exterior change or modification to a historically significant resource or heritage resource or of a contributing property located within an historic district including, but not limited to:

1. Exterior changes to or modifications of structure, architectural details or visual characteristics including paint color and surface texture;

2. Grading or surface paving;

3. Construction of new structures;

4. Cutting or removal of trees and other natural features;

5. Disturbance of archaeological sites or areas; and

6. The placement or removal of any exterior objects including signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories that affect the exterior visual qualities of the property.

Architectural feature means the architectural elements embodying style, design, general arrangements and components of the exterior of any building or structure, including, but not limited to, the kind, color and texture of the building materials and the style and type of all windows, doors, lights, signs and other fixtures.

Certificate of Approval means a certificate issued pursuant to this chapter approving any proposed alteration to a historically significant resource, a heritage resource or a contributing property located within a historic district.

Contributing property means a building, structure, site, feature or object within an historic district that embodies the significant physical characteristics and features, or adds to the historical associations, historic architectural qualities or archaeological values identified for the historic district, and was present during the period of significance, relates to the documented significance of the property, and possesses historic integrity or is capable of yielding important information about the period.

Design guidelines means the "Town of Danville Design Guidelines for Heritage Resources" adopted by the Town and as may be amended from time to time.

Heritage resource means a structure, site, improvement or natural feature that has been designated for heritage preservation pursuant to Section 32-72.6.

Heritage Resource Commission (HRC) means the Town's Heritage Resource Commission established pursuant to the provisions of this Code.

Historic Design Review Committee (HDRC) means the advisory committee appointed pursuant to this chapter to review proposed alterations to designated heritage resources. The HDRC shall be composed of five (5) members as follows: the Heritage Resource Commission/Planning Commission liaison, two (2) other Heritage Resource Commission members, one (1) Planning Commission liaison to the Design Review Board and one (1) other Design Review Board member not on the Planning Commission.

Historic district means any delineated geographic area having a significant number of structures, sites, improvements or natural features of historical significance, special character or aesthetic value which are united historically or aesthetically by plan or physical development, and which has been found by the Town Council to meet the criteria of preservation set forth in subsection 32-72.5 of this section.

Historically significant resource means a structure, site, improvement or natural feature identified by survey of the Town as being significant to the history and/or development of the Town and that meets the criteria for designation as a heritage resource set forth in subsection 32-72.4.

Improvement means a structure, parking facility, fence, gate, wall, work of art or other object constituting a physical feature that is not a natural feature.

Integrity means the ability of a structure, site, improvement or natural feature to convey its significance through the survival of key elements of its original style, scale, materials and detailing.

Major alteration means a modification to one or more of the following items:

1. Additions to a structure;
2. Construction of a new structure;
3. Exterior building materials other than those defined as minor alterations;
4. Grading;
5. Natural features designated as a heritage resource;
6. Renovation, rehabilitation or restoration of an existing structure.

Minor alteration means a modification to one or more of the following items:

1. Building color;
2. Signs;
3. Light fixtures;
4. Plant materials, landscape, tree removals, hardscape, or paving not including natural features designated as a heritage resource;
5. Street furniture;
6. Awnings;
7. Doors, windows, and chimneys;
8. Interior building modifications that affect the exterior appearance of a structure;
9. Any other similar alteration to a designated heritage resource deemed appropriate by the Town's Chief of Planning.

Natural feature means a landform, body of water, tree, significant landscaping feature, geological formation or other object of the native landscape.

Non-contributing property means a structure, site, improvement or natural feature located within the boundaries of a designated historic district that is not identified as a contributing property within the district.

Ordinary maintenance or repair means any work, the sole purpose and effect of which is to prevent or correct deterioration, decay or damage, including repair of damage caused by fire or other disaster and which does not result in a change in the historic appearance and materials of a property.

Owner means the person or entity whose name appears as the owner of real property on the most recent assessment roll of Contra Costa County.

Planning entitlement means any request for a development plan, subdivision, land use permit or other discretionary permit allowing for physical development of land or change in use of property.

Preservation means the identification, study, protection, restoration, rehabilitation, reconstruction, relocation or enhancement of buildings, structures, sites, improvements or natural features.

Register of heritage resources means the list of all structures, sites, improvements or natural features designated as heritage resources by the Town Council pursuant to subsection 32-72.6.

Site means a parcel or portion of real property.

Secretary of Interior's Standards for Rehabilitation means the US. Secretary of the Interior's Standards for Rehabilitation of Historic Buildings, issued by the National Parks Service, together with the accompanying Interpretive Guidelines for Rehabilitating Historic Buildings, as they may be amended from time to time.

State Historical Building Code means the State Historical Building Code adopted by the State of California.

Structure means any building or anything else constructed or erected that requires a permanent location on the ground.

Survey of historically significant resources means the list approved by the Town Council that identifies structures, sites (or portions of a site), improvements or natural features that are significant to the history and/or development of the Town and that meet the criteria for designation as a heritage resource pursuant to subsection 32-72.4.

Town means the Town of Danville. (Ord. # 2001-02, §2)

32-72.3 Survey of Historically Significant Resources.

a. The Town shall establish and maintain a survey of historically significant resources. The survey shall consist of structures, sites (or portions of a site), improvements or natural features that, based upon the information available to the Town, are significant to the history and/or development of the Town and that meet the criteria for designation as a heritage resource pursuant to this section. The survey shall be prepared and reviewed in accordance with procedures set forth in section 5024.1(g) of the California Public Resources Code. The survey shall be updated periodically to add or remove properties as appropriate. Updates of the survey may be initiated by a property owner, the HRC or any organization with a recognized interest in historic preservation.

b. The HRC shall be responsible for making recommendations to the Town Council for inclusion of significant historical resources in the survey. The HRC shall hold at least one (1) public hearing before making a recommendation regarding any resource. The HRC's recommendations shall be forwarded to the Town Council, which shall hold at least one (1) public hearing before taking action on the recommendations. Owners of resources recommended for inclusion in the survey shall be provided notice at least ten (10) calendar days prior to any HRC or Town Council hearing regarding inclusion in the survey. Once a property owner has received this ten (10) day notice, no permits, including demolition permits, shall be issued for the property while a decision regarding the HRC recommendation is pending.

c. Notice of inclusion on the survey shall be provided to the property owner, HRC, Planning Commission, Design Review Board, Chief of Planning, Chief Building Official, San Ramon Valley Historical Society, the Museum of the San Ramon Valley, California State Historic Preservation Officer and Contra Costa County Recorder.

d. Any alteration to a property on the survey shall require a Certificate of Approval as provided for in subsection 32-72.8.

(Ord. # 2001-02, §2)

32-72.4 Criteria for Designation of a Heritage Resource.

A structure, site (or portions of a site), improvement or natural feature may be considered for designation as a heritage resource pursuant to subsection 32-72.6 if it has maintained its historic integrity, is over fifty (50) years of age (less than fifty (50) years if it can be demonstrated that sufficient time has passed to understand the historical significance of the resource), and meets at least one (1) of the following criteria:

a. Is representative of a particular architectural style or reflects special elements of a distinct historical period, type, style or way of life important to the Town;

b. Is a type of building or is associated with a business or use that was once common but is now rare;

c. Is representative of the evolution or development or associated with the cultural, religious, educational, political, social or economic growth of the community, region, state or nation;

d. Represents the work of a notable builder, engineer, designer, artist or architect;

e. Is the site of an historical event or is associated with persons or events that have made a meaningful contribution to the community, region, state or nation;

f. Has a high potential for yielding information or archaeological interest;

g. Embodies elements of outstanding or innovative attention to architectural or engineering design, detail, craftsmanship or use of materials;

h. The unique location or singular physical characteristic represents an established and familiar visual feature of the neighborhood, community or Town;

i. Is a geographically definable area, possessing a significant concentration or continuity of site, improvements, natural features or objects unified by past events or physical development; or

j. Is an unusual natural feature.

(Ord. # 2001-02, §2)

32-72.5 Criteria for Designation of a Historic District.

A geographic area may be considered for designation as a historic district pursuant to subsection 32-72.6 if a contiguous area that includes a group of parcels that are over fifty (50) years of age (less than fifty (50) years if it can be demonstrated that sufficient time has passed to understand the historical significance of the resource), and at least one of the following criteria apply:

a. A significant number of the parcels reflect significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes or distinctive examples of park or community planning; or

b. A significant number of the parcels convey a sense of historic or architectural cohesiveness through their design, setting, materials, workmanship or association; or

c. A significant number of the parcels have historic significance and retain a high degree of integrity; or

d. The area in general is associated with a historically significant period in the development of the community or is associated with special historical events; or

e. A significant number of the parcels embody distinctive characteristics of a style, type, period or method of construction, or are a valuable example of the use of indigenous materials or craftsmanship; or

f. A significant number of the parcels represent the works of notable builders, designers or architects.

(Ord. # 2001-02, §2)

32-72.6 Process for Designation of Heritage Resources and Historic Districts.

a. *Initiation of Process*. Any structure, site (or portions of a site), improvement or natural feature or contiguous group of properties may be nominated for consideration as a heritage resource or historic district. A written nomination may be submitted by the property owner(s), the HRC, or any organization with a recognized interest in historical preservation. The nomination must include the address or location of the resource and any relevant information regarding the applicable criteria for designation. A nomination for a historic district shall include the proposed boundaries of the district with a listing of all contributing properties and any relevant information regarding the applicable criteria for designation.

b. *Notice of Nomination*. The Town shall notify the owner(s) of affected properties within ten (10) days after a nomination is filed.

c. *Nomination with Request to Alter a Potential Heritage Resource*. If a property owner submits a nomination accompanied by a request for planning entitlement or other request to alter the property requiring a Certificate of Approval pursuant to subsection 32-72.8, the actions shall be processed simultaneously.

d. *Review and recommendation by HRC.* The HRC shall review, at a public hearing, all nominations for conformance with the purposes of this chapter and the criteria for designation found in subsections 32-72.4 and 32-72.5. Affected property owners shall be provided with written notice thirty (30) days prior to the HRC's public hearing. Upon conclusion of the public hearing, the HRC shall forward to the Town Council a recommendation for action on the nomination. The HRC recommendation shall identify the applicable criteria for designation of a heritage resource or historic district set forth in this chapter, the key features of the resource or district that should be preserved and the location and boundaries of the site or district.

e. *Consideration by Town Council*. The Town Council shall conduct a public hearing to consider the nomination. At the public hearing, the Town Council shall consider the HRC's recommendation, the criteria for designation of a heritage resource or historic district set forth in this section, the key features of the resource or district that should be preserved and the location and boundaries of the site or district. Affected property owners shall be provided with written notice ten (10) days prior to the Town Council's public hearing.

f. *Consent of Property Owner Required*. No property shall be designated as a heritage resource or a contributing property within an historic district without the written consent of all affected property owners.

g. *Effect of Designation.* Heritage resources and contributing properties within a historic district may be altered only after obtaining a Certificate of Approval as provided for in subsection 32-72.8. In addition, heritage resources and contributing properties in historic districts are eligible for preservation incentives as provided for subsection 32-72.7.

h. *Effect of Disapproval.* If a nomination is disapproved, a subsequent nomination for the same potential heritage resource or historic district may not be considered for at least three years unless substantial additional information becomes available, in which case the nomination can be resubmitted after one (1) year. The property owner may submit a new application at any time.

i. *Notice of Designation*. Notice of all designations of heritage resources and historic districts shall be provided to the property owner, HRC, Planning Commission, Chief Building Official, San Ramon Valley Historical Society, the Museum of the San Ramon Valley, California State Historic Preservation Officer and Contra Costa County Recorder.

j. *Register of Heritage Resources and Historic Districts.* The Town shall maintain a register of all heritage resources and historic districts as designated by the Town Council.

(Ord. # 2001-02, §2)

32-72.7 Preservation Incentives.

In order to more effectively and equitably achieve the purposes of this section, the Town may offer incentives to the owners of heritage resources and contributing properties in a historic district in order to support the preservation, maintenance and appropriate rehabilitation of those resources. Preservation incentives shall be considered on a case-by-case basis and may include economic assistance, relaxation of otherwise applicable development standards or use restrictions. The HRC shall adopt by resolution a list of potential preservation incentives. (Ord. # 2001-02, §2)

32-72.8 Alterations to Heritage Resources.

a. No person may alter a historically significant resource, a heritage resource or a contributing property in an historic district without first obtaining a Certificate of Approval as provided for in this subsection.

b. *Application Requirements*. Applications for a Certificate of Approval shall include historical information regarding the property, a detailed statement of the proposed alteration, including architectural plans and any other information deemed appropriate by the Chief of Planning. If deemed appropriate by the Chief of Planning, all proposed design and construction plans shall be subject to third party review by a recognized preservation specialist, with the cost to be borne by the applicant.

c. *Process for Reviewing Requests for Certificate of Approval*. All requests for a Certificate of Approval shall be processed by the Town as follows:

1. Minor Alterations. If, in the judgment of the Chief of Planning, the proposed minor alteration is consistent with the applicable design standards described in subsection (d) below, the Chief of Planning may approve or conditionally approve the application. If the Chief of Planning finds the proposal is not consistent with the applicable design standards, the application shall be forwarded to the HRC for their review and determination. The Chief of Planning shall refer any request for minor alteration to the Historic Design Review Committee for their review and recommendation.

2. Major Alterations. All proposed major alterations shall be forwarded to the Historic Design Review Committee, which will review the project design and Conditions of Approval and make a recommendation to the HRC. The HRC shall review and make the final determination on all proposed major alterations.

3. Alterations Accompanied by Planning Entitlement. All proposed alterations that are accompanied by a request for planning entitlement shall be acted on by the HRC. In the discretion of the Chief of Planning, the application may be routed to the Historic Design Review Committee and/or the Planning Commission for their review and recommendations to the HRC.

d. *Standards for Review*. The following standards shall be used in considering any request for a Certificate of Approval:

1. The proposed alteration should not adversely affect the historically significant exterior architectural features of the designated heritage resource or contributing property in a designated historic district or the special character, interest or value of its neighboring improvements and surroundings, including facade, setback, roof shapes, scale, height and relationship of material, color and texture.

2. The reviewing body shall rely upon the most current version of the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," the State Historic Building Code and the Town of Danville's Design Guidelines for Heritage Resources.

e. *Appeal*. An action of the Chief of Planning or the HRC may be appealed to the Town Council by filing a written notice of appeal with the Town Clerk within ten (10) days following the determination of the Commission.

(Ord. # 2001-02, §2)

32-72.9 Maintenance of Heritage Resources.

a. The owner of a historically significant resource, a heritage resource or a contributing property within an historic district shall maintain in good condition the exterior of the resource consistent with the Design Guidelines and all interior portions whose maintenance is necessary to prevent deterioration and decay of an exterior feature.

b. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of an exterior feature that does not involve a change in design, material or external appearance.

(Ord. # 2001-02, §2)

32-72.10 Repeal or Amendment of Designation.

a. The Town Council may repeal or amend a listing on the survey of historically significant resources or a heritage resource

designation only if one of the following circumstances exists:

1. A change of circumstances that results in the resource no longer satisfying the criteria set forth in subsection 32-72.4;

2. The existing designation will cause the property owner immediate and substantial financial hardship; or

3. The resource has been damaged by fire or other calamity to such an extent that it cannot reasonably be repaired or restored.

b. The procedure for repealing or amending a designation shall be the same as for designating a resource under subsection 32-72.6. The owner shall have the burden of establishing the circumstances warranting repeal or amendment.

c. If a heritage resource designation is repealed at the request of the property owner, the Town Council may require reimbursement of any preservation incentives provided to the property owner.

(Ord. # 2001-02, §2)

32-72.11 Property Owned by Public Agencies.

Public agencies which own property in the Town shall be notified of the provisions of this section and encouraged to seek the advice of the HRC before the construction, alteration or demolition of any potential heritage resources. (Ord. # 2001-02, §2)

32-72.12 Unsafe or Dangerous Conditions.

This section shall not be construed to prevent any measures of construction, alteration, restoration, removal or demolition necessary to correct or abate the unsafe or dangerous condition of a structure that has been declared unsafe or dangerous by the Town's Chief Building Official or the Fire Marshal. Only such work as is reasonably necessary to correct the unsafe or dangerous condition may be performed under this subsection. (Ord. # 2001-02, §2)

32-72.13 Violation.

a. Any violation of this section or failure to comply with a condition of approval of any certificate or permit issued pursuant to this chapter shall be a misdemeanor punishable as set forth in this code.

b. Any person who constructs, alters, removes or demolishes a historically significant resource, a heritage resource or a contributing property in a historic district, shall be required to restore the resource to its appearance prior to the violation to the extent such restoration is physically possible. This civil remedy shall be in addition to, and not in lieu of, any criminal remedies available.

(Ord. # 2001-02, §2)

32-73 INCLUSIONARY HOUSING.

32-73.1 Title.

This section shall be entitled the Inclusionary Housing Ordinance.

(Ord. #2014-08, § 2)

32-73.2 Findings.

The Town Council of the Town of Danville finds that Danville is experiencing a housing shortage for affordable housing. A goal of the Town is to achieve a balanced community with housing available for households of a range of income levels. Increasingly, households with very low, low and moderate incomes who work and/or live within the Town are unable to locate housing at prices they can afford and are increasingly excluded from living in the Town. The Town finds that the high cost of newly constructed housing does not, to any appreciable extent, provide affordable housing, and that continued new development which does not include nor contribute toward lower cost housing will serve to further aggravate the current housing problems by reducing the supply of developable land. The Town further finds that the housing shortage for affordable housing is detrimental to the public health, safety and welfare, and further that it is a public purpose of the Town, and a public policy of the State of California as mandated by the requirements for a Housing Element of the Town's General Plan, to make available an adequate supply of housing for persons of all economic segments of the community.

(Ord. #2014-08, § 2)

32-73.3 Purpose.

The purpose of this section is to enhance the public welfare and assure that new residential developments with eight (8) or more dwelling units or lots contribute to the attainment of the Town's housing goals by increasing the production of affordable housing, and additionally stimulating funds for development of affordable housing. The regulations set forth in this chapter shall apply to all areas of the Town of Danville.

(Ord. #2014-08, § 2)

32-73.4 Definitions.

For the purposes of this section, certain words and phrases shall be interpreted as set forth in this section, unless it is apparent from the context that a different meaning is intended.

Affordable housing cost. The cost to rent or purchase a house as defined in Section 50052.5 of the Health and Safety Code. (Government Code Section 65915(d)(1).) Housing cost means the monthly mortgage (including principal and interest), property taxes,

and homeowner association fees, where applicable, for ownership units; and the monthly rent and an appropriate utility allowance for rental units.

Affordable unit, for rent. Affordable rent (including a reasonable utility allowance) shall not exceed the following:

1. For very low-income households, the product of thirty percent (30%) times fifty percent (50%) of the area median income adjusted for family size appropriate for the unit;

2. For low-income households whose gross incomes exceed the maximum income for very low-income households, the product of thirty percent (30%) times sixty percent (60%) of the area median income adjusted for family size appropriate for the unit;

3. For moderate-income households, the product of thirty percent (30%) times one hundred ten percent (110%) of the area median income adjusted for family size appropriate for the unit. (Health. and Safety Code Section 50053.)

Affordable unit, for sale. Affordable housing cost may not exceed the following:

1. For very low-income households, the product of thirty percent (30%) times fifty percent (50%) of the area median income adjusted for family size appropriate for the unit;

2. For low-income households whose gross incomes exceed the maximum income for very low-income households and do not exceed seventy percent (70%) of the area median income adjusted for family size, the product of thirty percent (30%) times seventy percent (70%) of the area median income adjusted for family size appropriate for the unit;

3. For moderate-income households, not less than twenty-eight percent (28%) of the gross income of the household, not exceeding the product of thirty-five percent (35%) times one hundred ten percent (110%) of area median income adjusted for family size appropriate for the unit. (Health and Safety Code Section 50052.5(b).)

Affordable units. Living units that are required to be rented at affordable rents or available at affordable housing costs to specified households.

Applicant means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks Town real property development permits and approvals.

Approval means approval by the Town of a discretionary permit such as a tentative map, planned development or use permit for a residential development project.

Area median income. The area median income for Contra Costa County as published at Title 25, California Code of Regulations, Section 6932.

Below Market Rate or *BMR* means residential units sold or rented at rates affordable to very low, low or moderate income households.

Danville employee means any head of household, or in the case of married couples either spouse, who has worked within the Town limits continually for one (1) year in the year immediately preceding the occupancy of an affordable unit.

Danville resident means any person who has lived within the Town limits of Danville for one (1) year in the year immediately preceding the occupancy of an affordable unit.

Developer means the same as "applicant" (see above definition).

Household income levels includes:

1. *Low-income household.* A household whose income does not exceed the low-income limits applicable to Contra Costa County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50079.5.

2. *Lower income household.* A lower income household as defined in Civil Code Sections 51.3 and 51.12. (Government Code Sections 65915(b)(1) and (c)(1) and Health and Saf. Code Section 50079.5.) It includes low- and very-low income households.

3. *Moderate-income household.* A household with an annual income between the lower income eligibility limit (usually eight percent (80%) of the area median family income) and one hundred twenty percent (120%) of area median income limits applicable to Contra Costa County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code. (Government Code Section 65915(c)(2), Health and Safety Code Section 50093.)

4. *Very low-income household.* A household whose income does not exceed the very low-income limits applicable to Contra Costa County, as published and periodically updated by the State Department of Housing and Community Development pursuant to California Health and Safety Code Section 50105. (Government Code Section 65915(b)(2) and (c)(1).

Incentive means a benefit offered by the Town to facilitate construction of residential developments which include BMR units. Among others, benefits may include fee waivers or reductions for BMR units, and flexibility and/or relaxation of development regulations,

In lieu participation fee means a fee paid to the Town by an applicant for a residential development in the Town in lieu of providing the inclusionary affordable units required by this section. (See subsection 32-78.6.)

Project owner means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which holds fee title to the land on which the project is located.

Residential development means and include developments of eight (8) or more units or lots for, without limitation, detached single

family dwellings, multiple dwelling structures, groups of dwellings, condominium conversions, cooperative developments and land subdivisions intended to be sold to the general public.

Secondary unit means a residential unit which provides complete, independent living facilities for one (1) or more persons. It includes permanent provisions for living, sleeping, cooking, eating and sanitation on the same parcel as the primary unit.

Town means the Town of Danville or its designee, or any entity with which the Town contracts with to administer this section.

Unit type means dwelling units with similar floor area and number of bedrooms.

(Ord. #2014-08, § 2)

32-73.5 Applicability.

Each residential development of eight (8) or more lots is subject to this Section 32-73. A project developed consistent with the regulations of the Density Bonus Ordinance at Section 32-74 shall be considered to have satisfied all requirements contained in this section.

(Ord. #2014-08, § 2)

32-73.6 Scope.

Every approval for residential development shall assure provision of one (1) or more BMR units according to the following regulations:

a. Residential development with resultant densities less than or equal to seven (7) units an acre shall provide a number of BMR units equal to ten percent (10%) of the number of market rate units in the project.

b. Residential developments with resultant densities of greater than seven (7) units an acre:

1. Residential developments up to twenty (20) units in size shall provide a number of BMR units equal to ten percent (10%) of the number of market rate units in the project.

2. Residential developments containing twenty-one (21) or more units shall provide a number of BMR units equal to fifteen percent (15%) of the number of market rate units in the project.

3. All residential developments with densities of thirteen (13) units or more per acre shall construct the affordable units as a part of the residential development.

c. At the discretion of the Town Council, affordable units required pursuant to this section may be provided at a location within the Town other than the residential development which creates the requirement for the affordable units.

d. If the BMR units produced in a project with a resultant density of greater than seven (7) units an acre are of a physical design (i.e., the overall project density, the BMR unit type and/or the BMR unit size) such that they will remain affordable to qualifying moderate income households even if sold or rented at market rate levels, the number of BMR units required to be supplied in the project may be reduced to ten percent (10%) of the overall project count. The determination to reduce the number of affordable units required to be supplied in the project shall be made by the Town Council.

(Ord. #2014-08, § 2)

32-73.7 Incentives.

An applicant may request a modification of the following standards where such waiver or modification is necessary to make the provision of BMR units economically feasible. The request shall be accompanied by information sufficient to demonstrate that the incentive is necessary to make the affordable units economically feasible:

a. A reduction in site development standards and modification of Zoning Code requirements or architectural design standards exceeding state building standards including, but not limited to, a reduction in setback, square footage, minimum lot size, minimum lot dimensions, street section, sidewalks, open space, landscaping or number of required parking spaces.

b. Relaxation of development standards for new subdivisions incorporating BMR secondary units into a single family development, including, but not limited to modifications in unit setback requirements, number of bedrooms, parking requirements or other regulations contained in the Town's second unit ordinance, as may be amended from time to time.

c. Other regulatory incentives or concessions proposed by the applicant or the Town which result in identifiable cost reductions applicable to the BMR units within a residential development. Where the applicant requests one or more of the above listed incentives, a preliminary project financial report shall be submitted (pro forma) along with the application for the project in order to evaluate the financial need for the requested incentive(s). At the cost of applicant, the Town may retain a consultant to review the financial report. If the applicant is a nonprofit organization, the Town may elect to pay the cost of the consultant upon approval by the Town Council.

(Ord. #2014-08, § 2)

32-73.8 In Lieu Participation Fees.

In lieu participation fees may be appropriate for particular projects not suitable for inclusionary affordable units due to factors including, but not limited to, location, availability of services, extreme topography, development density, and environmental constraints. In such cases the applicant, upon approval of the Town Council, may contribute fees in lieu of providing inclusionary affordable units. Such fees shall be known as "in lieu participation fees." Applicants may make payment of in lieu participation fees in residential

developments except that in lieu participation fees may not be authorized for residential developments with densities of thirteen (13) units or more per acre.

a. The in lieu fee shall be calculated based on the subsidy differential between what a moderate income household (earning one hundred ten percent (110%) of current area median income), adjusted for expected household size and appropriate unit size, can afford to pay for housing and the estimated total cost of a new, non-BMR unit of appropriate size, as determined to the satisfaction of the Town. The in lieu fee shall be calculated on a project-by-project basis with the per unit fee paid subject to review and approval by the Chief of Planning.

b. The in lieu fee for the entire residential development shall be due prior to occupancy of the first unit.

(Ord. #2014-08, § 2)

32-73.9 Application Process.

The decision-making body for a formal application meeting the requirements of this section shall be the Planning Commission and/or Town Council, whichever is authorized to approve the associated discretionary permit.

(Ord. #2014-08, § 2)

32-73.10 General Requirements.

a. All BMR units shall be sold or rented as affordable units for occupancy only by very low, low or moderate income households.

b. The goal is to have all BMR units remain affordable. The term of affordability is twenty (20) years, except that the Town Council may determine that the physical design of the BMR units is such to ensure that the unit will remain affordable in the long term to qualifying moderate income households, and reduce the term of affordability to a minimum term of not less than ten (10) years.

c. All fractions of units or lots equal to or greater than .75 of a unit shall be rounded up to the nearest whole unit.

d. The maximum sales price of all for-sale BMR units shall be no more than that which would be affordable to a moderate income household earning one hundred ten percent (110%) of the current area median income, adjusted for expected household size and appropriate unit size. A maximum of thirty-five percent (35%) of household income shall be assigned to the housing costs for the for-sale BMR unit.

e. The maximum rental price of all for-rent BMR units shall be no more than that which would be affordable to a moderate income household earning one hundred ten percent (110%) of the current area median income, adjusted for expected household size and appropriate unit size. A maximum of thirty percent (30%) of household income shall be assigned to the housing costs for the for-rent BMR unit.

f. Households with eligible Danville residents shall be given first preference for BMR units; second preference shall be given to households with eligible Danville employees; third preference shall be given to all other eligible households.

g. Requirements for BMR units shall be established as conditions of approval for the residential development. Compliance with the regulations of this section shall be evidenced by an affordable housing agreement between the applicant and the Town Manager completed and recorded on the deed to each affected and shall run with the land.

1. The affordable housing agreement shall indicate the intended household type (i.e., for-sale or rental occupancies), number of BMR units and their corresponding number of bedrooms; standards for maximum qualifying household incomes; standards for maximum sales prices or rental rates; party/process responsible for certifying tenant incomes; construction scheduling, how vacancies will be marketed and filled; restrictions and enforcement mechanisms binding on property upon sale or transfer; maintenance provisions; and any other information as required by the Town to comply with the conditions of approval for the residential development.

2. The affordable housing agreement shall include a provision which allows the Town to assign its authority to regulate and enforce the agreement to the Contra Costa County Housing Authority, a nonprofit housing agency or other similar entity.

3. Proof of recordation of the affordable housing agreement on the deed of each BMR unit in a residential development shall be deemed a condition precedent to occupancy.

4. The provisions of this section shall not apply to transfers by gift, device or inheritance to the property owner's spouse or children; transfers of title to a spouse as part of a divorce or dissolution proceeding; acquisition of title interest therein in conjunction with marriage provided, however, that the deed restrictions shall continue to run with the title to said property following such transfers.

h. BMR units in a residential development and phases of a residential development shall be constructed concurrently with or prior to the construction of non-BMR units.

i. BMR units shall be provided as follows:

1. If the BMR units are built within the project, they are not required to be evenly dispersed throughout the development.

2. BMR units are not required to represent the predominant unit type in the project (e.g., locating affordable attached duet units on corner lots in a primarily single family development or including affordable secondary units into a primarily single family development).

3. The exterior design and character of the BMR units shall be substantially consistent with that of the non-BMR units in the residential development.

4. There may be a reduction of interior amenities provided within the BMR units as may be necessary to retain project affordability.

j. For-sale BMR units shall not be rented unless specifically authorized by the Town. Said authorization shall be formalized by way of execution of an amended affordable housing agreement,

k. The Town may contract with the Contra Costa County Housing Authority, or other similar entity, to administer the sale, rental and/or in lieu participation fee provisions of this section.

l. The Town Manager may establish administrative guidelines for administration of the provisions of this section.

(Ord. #2014-08, § 2)

32-73.11 Fee Waivers and Priority Processing.

a. To increase the feasibility of providing affordable units, the Town Council, by resolution, may waive or reduce certain Town fees applicable to the affordable units or the residential development for which they are a part.

b. A project which provides inclusionary units shall be entitled to priority processing by the Town.

(Ord. #2014-08, § 2)

32-73.12 Violation - Penalty.

It is unlawful for any person, firm, corporation, partnership or other entity to violate any provision or to fail to comply with any of the requirements of this section. A violation of any of the provisions or failing to comply with any of the requirements of this section shall constitute a misdemeanor; except that, notwithstanding any other provisions of this Code, any such violation constituting a misdemeanor under this section may, at the discretion of the enforcing authority, be charged and prosecuted as an infraction.

(Ord. #2014-08, § 2)

32-73.13 Enforcement.

a. The Town Manager is hereby designated the enforcing authority of this section.

b. The provisions of this section shall apply to all agents, successors and assigns of an applicant proposing a residential development governed by this section. No building permit or occupancy permit shall be issued, nor any development approval be granted, which does not meet the requirements of this section.

c. In the event that it is determined that a BMR unit is being occupied as a rental unit and that rents in excess of those allowed by operation of this section have been charged, the Town may take the appropriate legal actions or proceedings to recover, and the project owner shall be obligated to pay to the tenant (or to the Town in the event the tenant cannot be located), any excess rental charges.

d. The Town may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including but not limited to actions to revoke, deny or suspend any permit or development approval.

(Ord. #2014-08, § 2)

32-73.14 Appeals.

Any person aggrieved by any action involving denial, suspension or revocation of an occupancy or other permit, or denial, suspension or revocation of any development approval, may appeal such action or determination in the manner provided for appeal of use permits, by subsections 1-8.1 through 1-8.5 of the Danville Municipal Code. The developer may appeal for a reduction, adjustment, or waiver of obligations if he or she establishes the absence of a reasonable relationship or nexus between the impact of the development and the inclusionary housing requirement.

(Ord. #2014-08, § 2)

32-73.15 For-Rent Below Market Rate* Accessory *Dwelling Units.

Notwithstanding the provisions of any other section contained within this chapter, and if it is determined to be appropriate by the Danville Town Council, the applicant may fulfill a development's inclusionary housing requirements with the development of second units, as set forth in this section.

a. *Applicability.* The provisions of this section shall apply to all new residential developments with eight (8) or more lots throughout the Town, with the exception of developments established within the Downtown Redevelopment Area.

b. *Scope.* If the Town Council determines that development of for-rent Below Market Rate (BMR) accessory dwelling units would be appropriate for a project, the minimum number of for-rent BMR second units supplied in a project shall be equivalent to twenty-five percent (25%) of the number of market rate units established in the project.

c. *Affordable Housing Agreement.* An affordable housing agreement, as generally provided for in subsection 32-73.10g, shall be recorded as a deed restriction on the property which incorporates a for-rent BMR second unit.

d. *Qualifying Households: Maximum Income of Renters.* The for-rent BMR second unit shall not be rented to a household with an income which exceeds the high end of the "low" income range (Note: The Town shall advise the owners of any annual changes in the area median incomes).

e. *Restriction on Rental Rate.* The rental rate shall not exceed what is affordable to a household earning the high end of the "low" income range, adjusted for household size and providing for appropriate allowance for utilities. A maximum of thirty percent (30%) of the household income shall be assigned to the housing costs for the for-rent BMR second unit (this shall cover both the unit's rental rate

and an appropriate allowance for utility costs). The Town shall advise the owner of annual changes in the allowable rental rate (and shall provide a schedule for utility allowance adjusted for household size).

f. *Self-Reporting.* The owner shall self-report the status of the for-rent BMR second unit (using a Town-supplied reporting form) in conjunction with receipt of the Town's annual rental rate update report. Owners of the for-rent BMR second units are not required to continuously market and rent the second units. If the Town determines that all the for-rent BMR units within a particular development have met the occupancy goal and intent of this section, then the Town may eliminate the requirement to self-report the status of the for-rent second unit(s) in that development.

g. *Design Parameters.* The for-rent BMR second units shall be designed such that the physical layout of the unit and its interrelationship with the primary unit ensures its availability as a self-contained viable second unit.

1. *Architectural and Physical Design.* For-rent BMR second units shall be architecturally compatible with main residential unit in roof pitch, scale, colors, materials, trim, windows, as well as other exterior physical features. The maximum floor area of a for-rent BMR second unit shall be as defined in subsection 32-73.15g,5.

2. *Relationship to Main Residence.*

(a) The second unit may be detached or attached to the main residence;

(b) If detached second units are proposed, each second unit shall be designed to provide privacy for the main residential unit (i.e., minimum number of windows facing the main unit, relative location of entry areas, and the like) and shall meet all setback requirements applicable to the main residence;

(c) The second unit shall have a separate entrance from the main unit;

(d) There shall be no direct access from main residence to the second unit;

(e) There shall be a wall separating the garage of the primary residence and the garage/ parking area of the secondary unit;

(f) The second unit shall have a separate mailing address to allow independent contact with the unit's occupants; and

(g) Any proposed modifications to the second unit must secure prior review and approval by the Chief of Planning.

3. *Adequate Facilities.* At the time the tentative map associated with the project is reviewed, a finding must be made that the following adequate facilities are provided:

(a) The second unit shall have complete independent living facilities, adequate to meet the needs of at least a one-person household;

(b) Permanent provisions for food preparation, sleeping, and bathing needs shall be provided;

(c) Disposal of sanitary waste shall be provided by the public sanitary sewer district;

(d) Provision of potable water shall be provided by the municipal utility district;

(e) To function as an independent living unit, the accessory dwelling shall be required to have its own water heater, washer/dryer hookups, air-conditioning/heating unit (with independent cooling /heating controls).

4. *Parking Requirements.* The second unit shall have its own on-site covered parking space (nine by nineteen (9' x 19') feet, minimum clear), which shall be walled off and accessed separately. The on-site parking space for the second unit may be provided as a garage or as a carport.

5. *Minimum Lot Size/Maximum Second Unit Size/Floor Area Ratio.*

(a) The second unit shall be a minimum of six hundred fifty (650) square feet in size for developments with lots averaging eight thousand (8,000) square feet or more (i.e., projects with a density 4.15 dwelling units per acre);

(b) The second unit shall be a minimum of five hundred (500) square feet in size for developments with lots averaging less than eight thousand (8,000) square feet (i.e., projects with a density greater than 4.15 dwelling units per acre);

(c) Projects with a typical minimum lot size of six thousand five hundred (6,500) square feet (i.e., equivalent to a density of five (5) dwelling units per acre) shall not be allowed to utilize this approach for meeting their affordable housing requirements;

(d) The resulting floor area ratio (FAR) for the primary and secondary units on an individual lot shall not exceed sixty percent (60%);

(e) Deviation from the above-cited dimensional criteria may be considered by the Town Council on a project-by-project basis.

6. Setback requirements will be determined on a project-by-project basis.

(Ord. #2014-08, § 2)

32-74 DENSITY BONUS.

32-74.1 Purpose.

This Section 32-74 is adopted to comply with state law requirements for providing a density bonus to a housing developer who provides affordable housing units.

(Ord. #2014-07, § 2)

32-74.2 Definitions.

For the purposes of this section, certain words and phrases shall be interpreted as set forth in this section unless it is apparent from the context that a different meaning is intended.

Affordable housing cost shall be the cost to rent or purchase a house as defined in Section 50052.5 of the Health and Safety Code. (Government Code Section 65915(d)(1).) Housing cost means the monthly mortgage (including principal and interest), property taxes, and homeowner association fees, where applicable, for ownership units; and the monthly rent and an appropriate utility allowance for rental units.

Affordable unit, for rent. Affordable rent (including a reasonable utility allowance) shall not exceed the following:

1. For very low-income households, the product of thirty percent (30%) times fifty percent (50%) of the area median income adjusted for family size appropriate for the unit;

2. For low-income households whose gross incomes exceed the maximum income for very low-income households, the product of thirty percent (30%) times sixty percent (60%) of the area median income adjusted for family size appropriate for the unit;

3. For moderate-income households, the product of thirty percent (30%) times one hundred (110%) of the area median income adjusted for family size appropriate for the unit. (Health. and Safety Code Section 50053.)

Affordable unit, for sale. Affordable housing cost may not exceed the following:

1. For very low-income households, the product of thirty percent (30%) times fifty percent (50%) of the area median income adjusted for family size appropriate for the unit;

2. For low-income households whose gross incomes exceed the maximum income for very low-income households and do not exceed seventy percent (70%) of the area median income adjusted for family size, the product of thirty percent (30%) times seventy percent (70%) of the area median income adjusted for family size appropriate for the unit;

3. For moderate-income households, not less than twenty-eight percent (28%) of the gross income of the household, not exceeding the product of thirty-five percent (35%) times one hundred ten percent (110%) of area median income adjusted for family size appropriate for the unit. (Health and Safety Code Section 50052.5(b).)

Affordable units. Living units that are required to be rented at affordable rents or available at affordable housing costs to specified households.

Applicant means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks Town real property development permits and approvals.

Approval means approval by the Town of a discretionary permit such as a tentative map, planned development or land use permit for a project.

Area median income. The area median income for Contra Costa County as published at Title 25, California Code of Regulations, Section 6932.

Density bonus. An increase over the otherwise maximum allowable residential density. (Government Code Section 65915(f). See also Government Code Section 65917.5(a)(2).)

Developer means the same as applicant. (See above definition.)

Disabled person means a person with a physical or mental disability as defined at Government Code Section 12926.

Household income levels includes:

1. *Low-income household.* A household whose income does not exceed the low-income limits applicable to Contra Costa County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50079.5.

2. *Lower income household.* A lower income household as defined in Civil Code Sections 51.3 and 51.12. (Government Code Sections 65915(b)(1) and (c)(1) and Health and Safety Code Section 50079.5.) It includes both low-income and very-low income households.

3. *Moderate-income household.* A household with an annual income between the lower income eligibility limit and one hundred twenty (120%) of area median income limits applicable to Contra Costa County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code. (Government Code Section 65915(c)(2), Health and Safety Code Section 50093.)

4. *Very low-income household.* A household whose income does not exceed the very low-income limits applicable to Contra Costa County, as published and periodically updated by the State Department of Housing and Community Development pursuant to California Health and Safety Code Section 50105. (Government Code Section 65915(b)(2) and (c)(1).

Incentive or concession means a regulatory modification that results in identifiable, financially sufficient, actual cost reductions, such as a reduction in site development standards, modification of zoning requirements (including approval of mixed-use zoning), modification of architectural design requirements, reduction in setback or square footage requirements, and reduction in vehicular

parking spaces. (Government Code Section 65915(d) and (k).)

Permit means an approved application by the Town of Danville for a development plan, land use entitlement, subdivision, Planned Unit Development or building permit.

Project means a housing development at one (1) location, including all dwelling units for which permits have been applied for or approved within a twelve (12) month period.

Project owner means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities that holds fee title to the land on which the project is located.

Restricted occupancy unit means a unit restricted in such a manner that it is sold or rented at a rate affordable to very low or low income households; a unit restricted in such a manner that it is sold or rented at a rate affordable to moderate income households containing a handicapped household member; or a unit restricted in such a manner that it is occupied by a senior household.

Target unit. A dwelling unit within a housing development which will be reserved for sale or rent to, and is made available at an affordable rent or affordable ownership cost to, very low-, low-, or moderate-income households, or is a unit in a senior citizen housing development.

Town means the Town of Danville or its designee, or any entity with which the Town contracts with to administer this section.

Unit type means dwelling units with similar floor area and number of bedrooms.

(Ord. #2014-07, § 2)

32-74.3 Density Bonus.

The Town shall grant a density bonus and other incentives to a qualifying applicant for a housing development of five (5) or more units. A Developer may qualify for a density bonus if:

a. The proposed housing development provides the minimum number of affordable housing units, under subsection 32-74.4 below. Additional density bonus and/or incentives may be available if a child care facility is also provided (Government Code Section 65915(h));

b. The applicant donates land for affordable housing, under Government Code Section 65915(g);

c. The housing development is a condominium conversion that will provide affordable housing, under Government Code Section 65915.5 and Danville Municipal Code Section 31-7; or

d. A child care facility is proposed in a commercial or industrial project, under Government Code Section 65917.5.

Neither the granting of a density bonus nor the granting of an incentive, in and or itself, requires a general plan amendment, zoning change, or other discretionary approval. (Government Code Section 65915 (g)(1) (2) and (k).) All density calculations resulting in fractional units shall be rounded up to the next whole number. (Government Code Section 65915 (f)(5), (g)(2.)

(Ord. #2014-07, § 2)

32-74.4 Minimum Requirements; Calculation; Continued Affordability.

a. *Density bonus - minimum requirement (target units).* The city shall grant a density bonus to an applicant for a housing development of five (5) or more units who seeks a density bonus and agrees to construct at least one (1) of the following (Government Code Section 65915(b)):

1. Ten percent (10%) of the total units of the housing development as target units affordable to low-income households;

2. Five percent (5%) of the total units of the housing development as target units affordable to very low-income households;

3. A senior citizen housing development of thirty-five (35) units or more. (Defined in California Civil Code Section 51.3(b)(4)); or

4. Ten percent (10%) of the total units of a newly constructed condominium project or planned development as target units affordable to moderate-income households. (Government Code Section 65915(b).)

An inclusionary unit or second unit under Danville Municipal Code Section 32-73 counts toward the total of target units.

b. *Density bonus - calculation of bonus units.* The maximum amount of density bonus to which an applicant is entitled varies according to (1) the type of qualifying housing under subsection a above and (2) the amount the percentage of affordable housing exceeds the minimum percentages set forth in subsection a above. The specific calculations are set forth in Government Code Section 65915(f).

Unit calculations do not need to be based on individual subdivisions or parcels. If the density bonus units are located separate from the restricted occupancy units, such project groups shall, unless otherwise authorized by the Town, be contiguous and shall be developed simultaneously with the development of the restricted occupancy units.

c. *Continued affordability.* An applicant shall agree to and the Town shall ensure:

1. The continued affordability of a low-and very-low income units for a period of thirty (30) years or longer (Government Code Section 65915(c));

2. Owner-occupied units are available at an affordable housing cost;

3. The initial occupant of a moderate income unit in a common interest development is a person or family or moderate income and that the units are offered at an affordable housing cost;

Whenever applicable or appropriate, the applicant shall enter into an agreement acceptable to the Town Attorney to assure the continued affordability, under Danville Municipal Code subsection 32-74.9.

(Ord. #2014-07, § 2)

32-74.5 Incentives.

a. *Number of incentives.* An applicant for a density bonus may submit a proposal for specific incentives or concessions. In addition to the types of incentives defined in subsection 32-74.4, the Town Council may reduce or waive Town-established fees.

The applicant may receive the following number of incentives or concessions (Government Code Section 65915(d)(2)):

Number of incentives	***Type of project***
1	At least 10% of total units for lower income households; 5% for very low income households, or 10% for persons and families of moderate income in a common interest development.
2	At least 20% of total units for lower income households; 10% for very low income households, or 20% for persons and families of moderate income in a common interest development.
3	At least 30% of total units for lower income households; 15%.

When a developer requests one (1) or more incentives, he or she shall submit a project financial report (pro forma) along with the application for the project in order to evaluate the financial need for the incentive(s). At the developer's cost, the Town may retain a consultant to review the financial report. (If the developer is a nonprofit organization, the Town Council may elect to pay the cost of the consultant.)

b. *Findings required for denial.* The Town shall grant the requested incentive or concession unless the Town makes a written finding based upon substantial evidence that the incentive or concession:

1. Is not required to provide for affordable housing costs or for rents to be set at the specified levels; or

2. Would have a specific adverse impact upon public health and safety or the physical environment, or on any property listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the impact without rendering the development unaffordable to low and moderate income households. "Specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions. (Government Code Section 65589.5.)

3. Would be contrary to state or federal law. (Government Code Section 65915(d).)

(Ord. #2014-07, § 2)

32-74.6 General Requirements.

a. *Continued affordability.*

1. Restricted occupancy units in projects receiving a density bonus shall remain affordable for a minimum of thirty (30) years, or a longer period if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. (Government Code Section 65915(c).)

2. Requirements for restricted occupancy units shall be established as conditions of project approval. Compliance with the conditions of this section shall be evidenced by an affordable housing agreement between the developer and the Town Manager, completed and recorded on the property to each affected unit before issuance of a building permit. It shall run with the land.

(a) The affordable housing agreement shall indicate the qualification criteria for the target households for the restricted occupancy units (e.g., very low income household, senior household, and the like), the intended household type (i.e., sale or rental restricted occupancy units), the number of restricted occupancy units and their corresponding number of bedrooms; standards for maximum qualifying household incomes for restricted occupancy units with affordability restrictions; standards for maximum rents or sales prices for restricted occupancy units with affordability restrictions; standards for qualifying for occupancy of senior or handicapped restricted occupancy units; party/process responsible for certifying qualifications of households which occupy restricted occupancy units; construction scheduling, how vacancies will be marketed and filled; restrictions and enforcement mechanisms binding on property upon sale or transfer; maintenance provisions; and any other information as required by the Town to comply with the conditions of approval for the project. If the agreement is an equity sharing agreement, it shall conform to the requirements of Government Code Section 65915(c)(2). (See also Government Code Sections 65916, 65917.)

(b) The affordable housing agreement shall include a provision which allows the Town of Danville to assign its authority to regulate and enforce the agreement to the Contra Costa County Housing Authority, a nonprofit housing agency or other similar entity.

3. For-sale restricted occupancy units shall not be rented unless specifically authorized by the Town and a new affordable housing agreement executed and recorded against the property.

b. *Priority for Danville residents or employees.* Households with Danville residents who meet the qualifications for occupancy of

restricted units will have first preference for restricted occupancy units; second preference will be given to households with Danville employees who meet the qualifications for occupancy of restricted units; third preference shall be given to all other eligible households. A Danville resident or employee (or spouse) is one who has lived or worked in Danville for the year immediately preceding the occupancy of the affordable unit.

c. *Timing and location of units.*

1. Units in a project and phases of a project shall be constructed concurrently with, or prior to, the construction of units without occupancy restrictions.

2. Units shall be provided as follows:

(a) Restricted occupancy units shall be dispersed throughout the project.

(b) Restricted occupancy units are not required to represent the predominant unit type in the project. Such as, but not limited to, locating affordable attached duet units on corner lots in a primarily single family development.

(c) The exterior design and character of the restricted occupancy units shall be substantially consistent with the units without occupancy restrictions in the project. There may be a reduction of interior amenities as may be necessary to attain affordability of the restricted occupancy units.

d. *Limitations on Town.* The Town may not:

1. Apply a development standard that will have the effect of physically precluding the construction at the desired density (Government Code Section 65915(e)(l).);

2. Require parking (other than handicapped and guest parking) to exceed one (1) space for one (1) bedroom, two (2) spaces for two-three (2-3) bedrooms, or two and one-half (2.5) spaces for four (4) or more bedrooms. (Government Code Section 65915(p).)

(Ord. #2014-07, § 2)

32-74.7 Violation - Penalty.

It is unlawful for any person, firm, corporation, partnership or other entity to violate any provision or fail to comply with any of the requirements of this section. A violation of any of the provisions or failing to comply with any of the requirements of this section shall constitute a misdemeanor; except that, notwithstanding any other provisions of this Code, any such violation constituting a misdemeanor under this section may, at the discretion of the enforcing authority, be charged and prosecuted as an infraction.

(Ord. #2014-07, § 2)

32-74.8 Enforcement.

a. The Town Manager is hereby designated the enforcing authority of this section.

b. The provisions of this section shall apply to all agents, successors and assigns of developer. No building permit or occupancy permit shall be issued, nor any development approval be granted, which does not meet the requirements of this section. The Chief Building Official may suspend or revoke any building permit or approval upon finding a violation of any provision of this section.

c. In the event it is determined that rents in excess of those allowed by operation of this section have been charged to a tenant residing in a restricted occupancy rental unit, the Town may take the appropriate legal action to recover, and the rental unit owner shall be obligated to pay to the tenant (or to the Town in the event the tenant cannot be located), any excess rent charges.

(Ord. #2014-07, § 2)

32-74.9 Appeals.

Any person aggrieved by any action or determination of the Town Manager under this section may appeal such action or determination to the Town Council as provided for in the Municipal Code.

(Ord. #2014-07, § 2)

32-75 RESERVED.

32-76 ACCESSORY DWELLING UNITS.

32-76.1 Purpose.

The purpose of this section is to increase opportunities for the development of smaller dwelling units for individuals and families developed on certain lots which are zoned for residential use; to provide affordable rental housing units for families and individuals with limited income; to provide rental units for the elderly and disabled; to protect property values and the integrity of the neighborhood by ensuring design and development standards are compatible with the existing neighborhood; to comply with requirements of State laws. (Ord. #2017-5, § 2; Ord. 2021-01, § 2)

32-76.2 Definitions.

Accessory dwelling unit is an attached or detached conditioned residential unit, which provides complete, independent living facilities for one or more persons. It includes permanent provisions for living, sleeping, cooking, eating and sanitation on the same parcel as the primary unit. The term “accessory dwelling unit” includes a granny unit, second dwelling unit, guesthouse, in-law unit, efficiency unit

(as defined in Health and Safety Code section 17958.1), manufactured home (as defined in Health and Safety Code section 18007), and similar accessory dwelling units, which provide complete independent living facilities. (Gov't. Code §65852.2 (i)(4).)

Accessory structure shall mean a structure that is an accessory or incidental to a dwelling on the same lot as the primary residence. For purposes of this section an accessory structure shall have at least three (3) walls and a solid roof such as a detached garage, pool house, garden shed, workshop, or cabana.

Administrative Accessory Dwelling Unit Review Process shall be defined as the review process conducted under a separate application filed with the Town either prior to or concurrent with the submittal of a building permit application for an accessory dwelling unit where a notice of the action to be taken by the Town on the application is sent to surrounding property owners with the provision of a period of time in which the Town's administrative action may be appealed.

Attached shall be defined as a building or a structure that is physically connected to and shares a common wall with the primary residence.

Conditioned space shall be defined as an area or room that is being heated or cooled for human habitation.

*Conversions*shall be defined as the modification of an existing enclosed detached structure or the modification of a portion of an existing residence into an accessory dwelling unit.

Detached shall be defined as a building or structure not physically connected and separated by six (6) feet or more, including eaves and other projections, from the primary residence.

Junior accessory dwelling unit shall be defined as a unit that is no more than five hundred (500) square feet in size and contained entirely within the floor space of an existing or proposed residence. A junior accessory dwelling unit must include a separate exterior entrance, may include an interior door to the residence, includes an efficiency kitchen, and may have private or shared bathroom facilities.

Manufactured home shall mean a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight (8) body feet or more in width, or forty (40) body feet or more in length, in the traveling mode, or, when erected on site, is three hundred twenty (320) or more square feet, is built on a permanent chassis and designed to be used as a single family dwelling with or without a foundation when connected to the required utilities, and including the plumbing, heating, air conditioning, and electrical systems contained therein.

Ministerial Review Process shall be defined as the review process conducted as part of the building permit review to ensure that a proposed accessory dwelling unit is consistent with the provision of this section.

Mixed use shall mean a property which has a General Plan land use designation and residential zoning district which includes residential use as an allowed or conditionally allowed use.

Multi-family residential shall be defined as the classification of housing which consists of multiple residential units on the same or connected lots with an overall density of at least eight (8) units per acre.

Non-conditioned space shall be defined to include, but not limited to, open decks, patios, breezeways, non-conditioned shops, garages, attics, and storage areas.

Objective zoning and design standards shall mean standards that involve no personal or subjective judgement by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

(Ord. #2017-5, § 2; Ord. 2021-01, § 2)

32-76.3 ***Review Process.***

a. Accessory dwelling units and junior accessory dwelling units which are consistent with the development and design standards contained within this section shall be subject to the Town's Ministerial review process.

b. Accessory dwelling units and junior accessory dwelling units which are not consistent with the development and design standards contained within this section shall be subject to the Town's Administrative review process. (Ord. 2021-01, § 2)

32-76.4 General Plan and Zoning Compliance.

a. Accessory dwelling units and junior accessory dwelling units shall be allowed in any residential or mixed-use General Plan land use district.

b. An accessory dwelling unit does not count toward the otherwise applicable General Plan residential density or zoning requirements which may conflict with this section. An accessory dwelling unit consistent with this section shall be deemed to be consistent with the General Plan and applicable zoning district.

c. Multifamily lots with multiple detached single family dwellings are considered single family lots for purposes of this section. (Ord. 2021-01, § 2)

32-76.5 ***General Development and Design Standards.***

a. *Bedrooms.* There is no maximum number of bedrooms.

b. *Balconies, decks and patios.* Accessory dwelling units which have less than a 10-foot side or rear yard setback, or the minimum

setback requirement for the primary residence for the zoning district (whichever is less), may not include balconies, decks, or platforms that are more than six (6) inches above grade between the structure and a side or rear property line.

c. *Garages.* A two-car garage, with maximum dimensions of twenty-two (22) feet deep and twenty (20) feet wide, may be included as part of a detached accessory dwelling unit and does not count toward the accessory dwelling unit square footage requirements.

d. *Basements.* An accessory dwelling unit may include a basement so long as the basement is non-conditioned and is no more than fifty percent (50%) the size of the conditioned area of the accessory dwelling unit.

e. *Design.* The exterior appearance of an accessory dwelling unit shall be architecturally compatible with the primary residence and with the surrounding neighborhood. Architectural compatibility will be determined to exist where there is coordination of building colors and materials such as siding and roof materials. (Ord. #2017-5, § 2; Ord. 2021-01, § 2)

32-76.6 ***Development Standards for Attached Accessory Dwelling Units in Single Family Residential Districts.***

a. *Setbacks, side yard and rear yard.* Four (4) foot minimum setback to the property line, including eves and other architectural projections.

b. *Setbacks, front yard and secondary front yard.* Accessory dwelling units shall be required to maintain the front and secondary front yard setbacks applicable to the primary residence for the zoning district.

c. *Height.* The maximum height shall be sixteen (16) feet. If the accessory dwelling unit maintains the minimum setbacks applicable to the primary residence, the maximum height shall be the height applicable to the primary residence.

d. *Size.* For residential zoning districts allowing a maximum lot size less than forty thousand (40,000) square feet, the maximum size shall be one thousand two hundred (1,200) square feet but shall not exceed fifty percent (50%) of the conditioned square footage of the existing or proposed primary residence, however, a minimum of eight hundred fifty (850) square foot or one thousand (1,000) square foot accessory dwelling unit with more than one bedroom shall be allowed. For lots that are within a zoning district requiring a minimum forty thousand (40,000) square foot lot size or larger, the maximum size shall be two thousand (2,000) square feet but shall not exceed fifty percent (50%) of the conditioned square footage of the existing or proposed primary residence, however a minimum of eight hundred fifty (850) square foot or one thousand (1,000) square foot accessory dwelling unit with more than one (1) bedroom shall be allowed. There are no minimum size requirements. (Ord. 2021-01, § 2)

32-76.7 ***Development Standards for Detached Accessory Dwelling Units in Single Family Residential Districts.***

a. *Setbacks, side yard and rear yard.* Four (4) foot minimum setback to the property line, including eaves and other architectural projections.

b. *Setbacks, front yard and secondary front yard.* Accessory dwelling units shall be required to maintain the front and secondary front yard setbacks applicable to the primary residence for the zoning district.

c. *Height.* The maximum height shall be sixteen (16) feet. If the accessory dwelling unit maintains the minimum setbacks applicable to the primary residence, the maximum height shall be twenty-four (24) feet.

d. *Size.* For residential zoning districts allowing a maximum lot size less than forty thousand (40,000) square feet, the maximum size shall be one thousand two hundred (1,200) square feet. For lots that are within a zoning district requiring a minimum forty thousand (40,000) square foot lot size or larger, the maximum size shall be two thousand (2,000) square feet. There are no minimum size requirements. (Ord. 2021-01, § 2)

32-76.8 ***Development Standards for Attached Accessory Dwelling Units in Multifamily Districts.***

a. *Setbacks, side yard and rear yard.* Four (4) foot minimum setback to the property line, including eves and other architectural projections.

b. *Setbacks, front yard and secondary front yard.* Accessory dwelling units shall be required to maintain the front and secondary front yard setbacks applicable to a multiple family building (s) for the zoning district.

c. *Height.* The maximum height shall be sixteen (16) feet. If the accessory dwelling unit maintains the minimum setbacks applicable to the multiple family building(s) primary residence, the maximum height shall be the height applicable to the multiple family building(s).

d. *Size.* For residential zoning districts allowing a maximum lot size less than forty thousand (40,000) square feet, the maximum size shall be one thousand two hundred (1,200) square feet. For lots that are within a zoning district requiring a minimum forty thousand (40,000) square foot lot size or larger, the maximum size shall be two thousand (2,000) square feet. There are no minimum size requirements.

e. *Size.* The maximum size of an accessory dwelling unit attached to a multiple family building (s) is one thousand two hundred (1,200) square feet.

f. *Conversion of existing space.* Portions of existing multifamily structures that are not used as livable space, such as attics, garages, or storage areas may be converted to accessory dwelling units, with the total number of accessory dwelling units not exceeding twenty-five percent (25%) of the existing multifamily structure's units. (Ord. 2021-01, § 2)

32-76.9 ***Development Standards for Detached Accessory Dwelling Units in Multifamily Districts.***

a. *Number.* Up to two (2) detached accessory dwelling units are allowed on a lot that has existing multifamily dwellings.

b. *Setbacks, side yard and rear yard.* Four (4) foot minimum setback to the property line, including eaves and other architectural projections.

c. *Setbacks, front yard and secondary front yard.* Accessory dwelling units shall be required to maintain the front and secondary front yard setbacks applicable to the zoning district.

d. *Height.* The maximum height shall be sixteen (16) feet. If the accessory dwelling unit maintains the minimum setbacks applicable to the multifamily building, the maximum height shall be twenty-four (24) feet.

e. *Size.* The maximum size shall be one thousand two hundred (1,200) square feet. (Ord. 2021-01, § 2)

32-76.10 Junior Accessory Dwelling Units.

One junior accessory dwelling unit is allowed in addition to an accessory dwelling unit on a residential lot. A junior accessory dwelling unit may be constructed within the walls of a proposed or existing single family residence. A junior accessory dwelling unit must have an independent exterior entrance and may have interior connections to the primary residence. (Ord. 2021-01, § 2)

32-76.11 Conversions.

a. The conversion or reconstruction in the same location within the dimensions of existing floor space within a single family residence or detached accessory structure to an accessory dwelling unit shall not be subject to setback, height, or size requirements under Sections 32-76.6 and 32-76.7. However, the fifty percent (50%) rule or the allowance of conversion up to eight hundred fifty (850) square feet or one thousand (1,000) square feet for a unit with more than one bedroom, for the conversion of a portion of single family residence shall apply.

b. An expansion of a maximum of one hundred fifty (150) square feet may be added to a converted accessory dwelling unit with a setback area that does not comply with the development standards under Sections 32-76.6 and 32-76.7 but shall be limited to accommodating ingress and egress for the unit. Any addition beyond one hundred fifty (150) square feet shall comply with the Development Standards contained in Sections 32-76.6 and 32-76.7.

c. Setbacks and construction methods shall be sufficient to address fire and safety issues. (Ord. 2021-01, § 2)

32-76.12 Owner Occupancy.

a. The property owner is not required to occupy either the primary residence or an accessory dwelling unit.

b. For a junior accessory dwelling unit, the property owner must occupy either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization. The property owner shall be required to record a deed restriction, which shall run with the land. Confirmation of the deed recordation shall be submitted to the Town prior to issuance of building permits and shall include both of the following:

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 purchasers.

2. A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section. (Ord. 2021-01, § 2)

32-76.13 Statewide Exemption Accessory Dwelling Units.

Any attached or detached accessory dwelling unit which is eight hundred (800) square feet or less in size shall be allowed on lands zoned to allow or conditionally allow residential use. The Development Standards in Sections 32-76.5, 32-76.6, and 32-76.7 shall be waived to the extent necessary to allow an accessory dwelling unit up to eight hundred (800) square feet in size. (Ord. 2021-01, § 2)

32-76.14 Parking Requirements for Accessory Dwelling Units.

a. Except for the circumstances listed below, one off-street parking space shall be provided for all new accessory dwelling units:

1. The accessory dwelling unit is located within one-half (1/2) mile walking distance of public transit.

2. The accessory dwelling unit is located within an architecturally and historically significant historic district.

3. The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

4. When on-street parking permits are required, but not offered to the occupant of the accessory dwelling unit.

5. When there is a car share vehicle located within one block of the accessory dwelling unit.

b. Where required, a parking space for an accessory dwelling unit may be provided as tandem parking on the driveway and within setback areas in locations determined by the Town unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon the specific site or regional topographical or fire and life safety conditions.

c. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, no replacement parking shall be required. (Ord. 2021-01, § 2)

32-76.15 Parking Requirements for Junior Accessory Dwelling Units.

a. No additional off-street parking shall be required for a junior accessory dwelling unit.

b. If an existing one or two-car garage is converted to a junior accessory dwelling unit, the parking spaces must be replaced or be demonstrated to exist off-street on the site. Required parking may be provided as tandem parking on the driveway and within setback

areas in locations determined by the Town unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions. (Ord. 2021-01, § 2)

32-76.16 Short Term Rentals.

If an accessory dwelling unit or junior accessory dwelling unit is rented it shall be rented for terms longer than thirty (30) days. (Ord. 2021-01, § 2)

32-76.17 Covenants, Conditions and Restrictions.

Covenants, Conditions, and Restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an accessory dwelling unit or junior accessory dwelling unit shall be void and unenforceable. (Ord. 2021-01, § 2)

32-76.18 Tree Preservation.

For construction of an accessory dwelling unit that is subject to Tree Protection During Development provisions of the Town's Tree Preservation Ordinance (Section 32-79.9), any required tree protection bond or security shall be limited to not exceed five percent (5%) of the estimated construction cost of the accessory dwelling unit. (Ord. 2021-01, § 2)

32-76.19 Substandard Accessory Dwelling Units.

a. An existing substandard accessory dwelling unit not in conformance with this section shall be considered a nonconforming accessory dwelling unit. If a property owner wishes to alter an existing nonconforming accessory dwelling unit, the requirements of this section will apply to the proposed alteration.

b. An existing but not approved accessory dwelling unit that meets the requirements of this section may be legalized if the property owner modifies the accessory unit to address any deficiencies identified through a life/safety inspection by the Town Building Division. (Ord. 2021-01, § 2)

32-76.20 Ownership.

The accessory dwelling unit and/or junior accessory dwelling unit may be rented separate from the primary residence but may not be sold or otherwise conveyed separate from the primary residence. (Ord. 2021-01, § 2)

32-77—32-78 RESERVED.

32-79 TREE PRESERVATION.

32-79.1 Purpose and Intent.

The Town of Danville contains many species of native and non-native trees that are of great beauty and significance. It is recognized that the preservation of these trees enhances the natural beauty, sustains the long term potential increase in property values which encourages quality development, maintains the natural ecology, retains the tempering effect of extreme temperatures, helps to create and retain the identity and quality of the Town which is necessary for successful business to continue, improves the attractiveness of the Town to residents and visitors, prevents the erosion of top soil, provides protection against flood hazards and risk of landslide, and increases the oxygen output of the area which is needed to combat air pollution. It is also recognized that construction activities around trees can harm or destroy trees. For these reasons, the Town Council finds that in order to promote the public health, safety, and general welfare of the Town of Danville, while at the same time recognizing individual rights to develop private property in a manner which will not be prejudicial to the public interest, it is necessary to enact regulations controlling the removal of and preservation of trees within the Town. One of the purposes of this chapter is to provide financial incentives and security to protect and replace damaged or destroyed trees to the maximum extent possible.

(Ord. # 2001-01, §3; Ord. 2009-04, §2)

32-79.2 Definitions.

As used in this section:

a. *Certified arborist* shall be as defined by the International Society of Arboriculture; a "consulting arborist" who satisfies the requirements of the American Society of Consulting Arborists who, after review by the Chief of Planning, is determined to meet the standards established for certified or consulting arborists described above.

b. *Dripline* means the area of ground directly underneath any portion of the canopy of a tree.

c. *Heritage tree* means any single trunked tree in Town, regardless of species, which has a trunk diameter of thirty-six (36) inches or greater measured four and one-half (4-1/2) feet above the ground.

d. *Minor development* means any residential development of four (4) or fewer units.

e. *Major development* means any commercial development, or any residential development including five (5) or more residential units.

f. *Memorial tree* means a tree planted on public property in memory of or commemoration of an individual or individuals.

g. *Protected tree* means a tree of a specific species or size which can not be disfigured, damaged, or removed within the Town of Danville without obtaining a Tree Removal Permit from the Town.

h. *Routine maintenance* means actions taken to maintain the health of a tree including but not limited to, removal of deadwood,

diseased or crossing limbs, control of deleterious insects, and pruning pursuant to pruning standards specified by the Western Chapter of the International Society of Arboriculture Pruning Standards.

i. *Tree* means a live woody plant having a single perennial stem or a multi-stemmed perennial plant which is over fifteen (15) feet in height at maturity. This definition does not include trees planted, grown and held for sale by licensed nurseries or planted and grown as part of an active commercial orchard.

j. *Tree removal* means the removal, destruction, or unnecessary disfigurement of a tree.

(Ord. # 2001-01, §3; Ord. 2009-04, §2)

32-79.3 Protected Trees.

a. Any of the following native trees having a trunk or main stem which measures ten (10) inches or greater in diameter measured four and one-half (4-1/2) feet above natural grade or, for a multiple trunked tree, a combination of trunks totaling twenty (20) inches or greater in diameter measured four and one-half (4-1 /2) feet above natural grade, on any type of lot or property:

1. Coast Live Oak (Quercus Agrfolia)
2. Valley Oak (Quercus Lobata)
3. Canyon Live Oak (Quercus Chrysol)
4. Blue Oak (Quercus Doulgassi)
5. California Black Oak (Quercus Kelloggi)
6. Interior Live Oak (Quercus Wislizenii)
7. White Alder (Alnus Rhombifolia)
8. California Bay (Umbellularia California)
9. California Buckeye (Aesculus Californica)
10. California Sycamore (Platanus Racemosa)
11. Madrone (Arbutus Menziesii)
12. London Plane Tree (Platanus Acerifolia)

b. Any Heritage Tree.

c. Any Memorial Tree.

d. A tree shown to be preserved on an approved Development Plan or specifically required by the Planning Commission to be retained as a condition of approval of an entitlement. A tree specifically required to be preserved by the Planning Commission shall require a subsequent Planning Commission approval for removal.

e. A tree required to be planted as mitigation for the removal of a protected tree, as established under subsection 32-79.6.d.

(Ord. # 2001-01, §3; Ord. 2009-04, §2)

32-79.4 Permit Required; Exceptions.

a. *Permit.* Except as provided in paragraph b of this subsection, no person may destroy or remove a protected tree on any property within the Town of Danville without obtaining a Tree Removal Permit from the Planning Division pursuant to subsection 32-79.6.

b. *Exceptions.* A Tree Removal permit is not required for the following:

1. If the condition of a protected tree presents an immediate hazard to life or property, it may be removed without a permit. However, subsequent to the removal, the property owner shall obtain a Tree Removal permit from the Town. The property owner may be required to provide evidence to the Town regarding the condition of the tree which necessitated its immediate removal.

2. A tree whose removal was specifically approved as part of a previously approved development entitlement.

3. The routine maintenance of a protected tree shall not require a permit. Routine maintenance which, in the opinion of the Chief of Planning, varies from the definition of routine maintenance contained within this chapter shall be subject to fines and penalties as provided in section 32-79.10 of this chapter.

(Ord. #2001-01, §3; Ord. 2009-04, §2)

32-79.5 Permit Application.

a. An application for a Tree Removal permit shall be submitted to the Planning Division and shall be accompanied by the following information:

1. When combined with a larger development project, a preliminary development plan, and preliminary grading plan, showing the number, size, type, and location of trees to be removed and trees to be preserved, and the location of all existing and proposed improvements on the property. The plan should include the approximate drip line(s) of all trees on the site.

2. The applicant or property owner's name, address, and telephone number.

3. The name of the company, or individual to remove the tree(s), their address, phone number and business license number.

4. Specific reasons for requesting removal of tree(s).

b. A tree report prepared by a certified arborist or member of the International Society of Consulting Arborists, shall be submitted as part of the Tree Removal permit, if determined necessary by the Chief of Planning. The adequacy of the tree report shall be subject to determination by the Chief of Planning.

c. Application for, and granting of a Tree Removal permit may be jointly considered with an application for other development entitlements which may be required.

(Ord.# 2001-01, §3; Ord. 2009-04, §2)

32-79.6 Decision Regarding Permit.

a. *Time of Decision.* The Planning Division shall render a decision regarding the permit within fifteen (15) working days after the filing of a complete application. If an application is being jointly considered with any other application for a development entitlement, then the decision on the Tree Removal permit shall be rendered simultaneously with a decision on the development entitlement application.

b. *Criteria.* In order to issue a Tree Removal permit the Town shall consider the following criteria:

1. The condition of the tree(s) with respect to its health, imminent danger of falling, proximity to existing structures, and interference with utility infrastructure.

2. The necessity to remove the tree(s) to allow for the reasonable use, enjoyment or development of the property.

3. The age and/or size of the protected tree with regard to the appropriateness of the size of the area in which the tree is planted and whether its removal would encourage healthier, more vigorous growth of other plant material in the area.

4. If none of the above criteria are satisfied, the Planning Commission may authorize removal if it finds that, due to the location of the tree on the property and its orientation as it related to the residence on the property and/or actively used yard areas, the tree is unreasonably adversely impacting the property owner's enjoyment and/or use of the property. In this case, mitigation tree replacement plantings may be required as found appropriate by the Planning Commission.

5. The effect of the removal of the tree upon soil erosion or whether its removal will result in a significant diversion or increase in the flow of surface water.

6. The number, species, size and location of other protected trees in the area and the effect the removal of the tree(s) will have upon shade, privacy between properties, and scenic beauty of the area.

7. Possible visual impacts within a Town-identified Major Ridgeline or Scenic Hillside Area created as a result of the tree removal.

c. *Additional Recommendations.* The Chief of Planning may refer any Tree Removal application to the Planning Commission for review and action. Upon such referral, the timeline for action established under paragraph a of this subsection shall automatically increase to forty-five (45) days unless connected to another development application, in which case the request shall be considered jointly with that application.

d. *Mitigation Measures.* The Planning Division shall grant or deny the application, or grant the application with conditions of approval which are intended to help mitigate the removal of the tree(s). Where mitigation is determined to be necessary, the Town may require the planting of on-site or off-site replacement trees (location and species to be determined by the Town) which are of a cumulative diameter necessary to equal the diameter of the tree(s) which are approved for removal.

(Ord.# 2001-01, §3; Ord. 2009-04, §2)

32-79.7 Appeal.

A person aggrieved by the decision of the Planning Division may appeal to the Planning Commission, or aggrieved by the decision of the Planning Commission may appeal to the Town Council, by paying the appeal fee to the Town and filing a written notice of appeal setting forth specific grounds for the appeal with the City Clerk within ten (10) calendar days after the determination of the Planning Division or Planning Commission.

(Ord. # 2001-01, §3; Ord. 2009-04, §2)

32-79.8 Memorial Trees.

A person who wishes to sponsor a memorial tree planted on public property may file an application with the Town's Maintenance Services Department. The application shall contain the following information:

a. Name of the person for whom the tree is to be planted.

b. Species of tree preferred.

c. Desired location of planting.

(Ord. #2001-01, §3; Ord. 2009-04, §2)

32-79.9 Tree Protection During Development.

a. *Applicability.* This subsection applies to development which would occur within the dripline of one (1) or more protected tree(s), as established on the preliminary development plan, demolition plan, and/or grading plan. For the purpose of this subsection, development shall mean any work or improvement that requires approval from the Town.

b. *Security.* Before issuance of a demolition, grading, or building permit:

1. Where development is proposed within the dripline of one (1) or more protected tree(s), the property owner or developer shall submit a security to the Chief of Planning on a per tree basis. The required security shall be established as follows:

(a) The applicant shall be required to secure an appraisal of the condition and value of all affected trees. The appraisal shall be done in accordance with the then current edition of the "Guide for Establishing Values of Trees and Other Plants," by the Council of Tree and Landscape Appraisers under the auspices of the International Society of Arboriculture. The appraisal shall be performed by a certified arborist, and shall be subject to review and approval by the Chief of Planning.

(b) For a major development, if the appraised value of the tree(s) is fifty thousand ($50,000.00) dollars or less, the applicant shall deposit with the Town a cash security, letter of credit, or other security found to be acceptable by the Chief of Planning, equal to the value of each tree required to be appraised, for the purpose of securing and guaranteeing the applicant's obligations under paragraph c of this subsection. If the appraised value of the tree(s) is over fifty thousand ($50,000.00) dollars, the applicant shall deposit with the Town a cash security, or other security found to be acceptable by the Chief of Planning, equal to fifty thousand ($50,000.00) dollars plus one-half (1/2) of any amount between fifty thousand ($50,000.00) dollars and one hundred thousand ($100,000.00) dollars plus one quarter (1/4) of any amount between one hundred thousand ($100,000.00) dollars and one hundred fifty thousand ($150,000.00) dollars plus one tenth (1/10) of any amount in excess of one hundred fifty thousand ($150,000.00) dollars.

(c) For a minor development, if the appraised value of the tree(s) is twenty-five thousand ($25,000.00) dollars or less, the applicant shall deposit with the Town a cash security, letter of credit, or other security found to be acceptable by the Chief of Planning, equal to the value of each tree required to be appraised, for the purpose of securing and guaranteeing the applicant's obligations under paragraph c of this subsection. If the appraised value of the tree(s) is over twenty-five thousand ($25,000.00) dollars, the applicant shall deposit with the Town a cash security, or other security found to be acceptable by the Chief of Planning, equal to twenty-five thousand ($25,000.00) dollars plus one-half (1/2) of any amount between twenty-five thousand ($25,000.00) dollars and fifty thousand ($50,000.00) dollars plus one quarter (1/4) of any amount between fifty thousand ($50,000.00) dollars and seventy-five thousand ($75,000.00) dollars plus one tenth (1/10) of any amount in excess of seventy-five thousand ($75,000.00) dollars.

(d) The Town shall retain the security until the termination of the guarantee periods required under this chapter. Any funds remaining on deposit at the expiration of the guarantee period, and after all of the developer's or property owner's obligations under this chapter have been satisfied, shall be returned to the developer or property owner. Nothing under this chapter prohibits the transfer of the security obligation should the property change ownership.

c. *Guarantee and Replacement.* A developer or property owner shall:

1. Guarantee the health of each protected tree on the site that is not approved for removal from the date of the Town's finaling of the permit associated with the last construction activity which endangered the tree until the completion of at least two (2) full growing seasons after the completion of the construction activity;

2. Replace a protected tree(s) that dies during the guarantee period, as a result of damage caused by the development, with a tree(s) of a species approved by the Town, of a cumulative number and trunk diameter which equals the total trunk diameter of the tree(s) that died. The developer or property owner shall also be required to install and maintain irrigation (as determined necessary by the Chief of Planning) for the replacement tree(s) until the tree(s) are established;

3. Relocate and maintain during construction any tree identified for temporary stockpiling. During the period of time such trees are stockpiled, they shall be maintained by a licensed nurseryman;

4. Replace any stockpiled tree(s) that dies during the guarantee period with a tree(s) of the same species with a cumulative trunk diameter equal or greater than the total trunk diameter of the tree(s) which died;

5. Notify the Chief of Planning of any damage that occurs to a protected tree(s) during construction so that professionally acceptable methods of treatment may be administered. The repair of the damage shall be at the expense of the responsible party and shall be by professional standards, approved by the Chief of Planning. Failure to notify the Chief of Planning and/or to administer acceptable methods of treatment may result in the issuance of a stop work order for any permit associated with the project development activity. If determined necessary by the Chief of Planning, the Town may utilize security funds submitted as part of the development to retain a qualified third party arborist to review the tree(s) and have any necessary mitigation on the tree(s) performed;

6. In addition to replacing a guaranteed tree(s), upon determination by the Chief of Planning that a guaranteed tree has died through the fault of the applicant, pay to the Town a Civil Penalty in accordance with subsection 32-79.10.b., below.

7. A tree shall be presumed to have died through the fault of the applicant unless the applicant can prove to the Town that the tree died for reasons beyond the applicant's control or, in the case of stockpiled trees, the applicant used reasonable care to maintain the tree. In addition to such penalty, whenever the cost of replacing a tree(s) for which a civil penalty is levied is less than the appraised value of the tree(s), the applicant shall also pay the Town the difference between that appraised value and the cost of the replacement tree(s). The applicant's verified receipt for the cost of the replacement tree(s) shall be conclusive proof of the cost. If the applicant chooses not to submit such receipt within ten (10) days following replacement of the tree(s), then the Chief of Planning shall determine the value of the replacement tree.

8. Use of Penalties Collected. Penalties collected under this section shall be used as follows, as found appropriate by the Chief of Planning:

(a) To upgrade street trees along nearby public streets.

(b) To beautify or enhance public places, including parks and open spaces, within the Town.

(c) To beautify or enhance the site where the tree removal occurred.

(Ord.# 2001-01, §3; Ord. 2009-04, §2)

32-79.10 Penalties.

a. *Criminal Penalties.* Any person, including but not limited to the property owner, the person performing the work, and/or any other responsible person, who willfully violates any provision of this chapter or any condition established as part of any permit issued hereunder shall be guilty of a misdemeanor subject to penalties prescribed in subsection 1-5.3 of this code.

b. *Civil Penalties.* Any person, including but not limited to the property owner, the person performing the work, and/or any other responsible person, who violates any provision of this chapter, or any condition established as part of any permit issued hereunder shall be liable to the Town for a civil penalty of three (3) times the value of the tree. For purposes of calculating the value of the tree(s), the then-current edition of the "Guide for Establishing Values of Trees and Other Plants" by the Council of Tree and Landscape Appraisers under the auspices of the International Society of Arboriculture shall be used. The Town's use of penalties collected shall be as established under subsection 32-79.9.c.7.

c. *Cumulative Remedies.* The foregoing remedies shall be deemed nonexclusive, cumulative, and in addition to any other remedy the Town may have at law or in equity, including but not limited to injunctive relief to prevent violation of this chapter.

d. *Appeals.* A person aggrieved of an administrative action may appeal the action as specified under Section 1-8 this code.

(Ord. # 2001-01, §3; Ord. 2009-04, §2)

32-80 LANDSCAPE REQUIREMENTS.

a. *Applicability.* These requirements will be administered as part of the regular plan review process, prior to issuance of any building permits.

The requirements are applicable to all landscaping for new construction involving the following types of land uses:

Single Family Residential

Multiple Family Residential

Commercial

Office

Public

While not mandatory, these requirements shall also be used as guidelines for replacing or rehabilitating existing landscaping and irrigation in connection with the uses identified above.

The requirements do not apply to sites using reclaimed water.

1. Plan Submittal Required. For all uses except single family residential, landscape plans shall be submitted to the Town of Danville for review as to conformance with these requirements.

Landscape plans shall be submitted to the Town of Danville for review and approval prior to the issuance of any building permit for the project.

2. Self-certification for Single Family Residential. Upon installation of a new water service or initial purchase of a newly constructed home, the builder, owner or purchaser shall be provided a copy of these guidelines and shall acknowledge in writing their intent to install all new landscaping in a manner consistent with the requirements of this section.

In the case of a tract or subdivision, responsibility for notification shall rest with the seller of the homes and self-certification shall occur in accordance with disclosure requirements. Where construction of a single residence is involved the Town will advise the builder or permittee of requirements at issuance of building permit. Responsibility for notification shall rest with the seller of the home and self-certification shall occur in accordance with disclosure requirements.

b. *Ornamental Features.* Any man-made ornamental features such as pools, ponds, streams, lakes, and fountains which exceed a capacity of five hundred (500) gallons shall be supplied, operated, and maintained with alternative sources of water if they are available. For purposes of this section, swimming pools are not considered to be ornamental features. Ornamental features shall be constructed using recirculating pumps to reuse water and reduce the use of additional new water. All ponds shall be lined to eliminate the infiltration of water into the ground.

c. *Plant Selection.* A minimum of eighty percent (80%) of landscaping in non-turf areas shall be well suited to the climate of the region and require minimal water once established. Up to twenty percent (20%) may be non-drought tolerant variety as long as plants are grouped together and can be irrigated separately.

All irrigated landscaping shall be designed and installed in a manner which will be compatible with significant native landscaping which is existing on the site. Special care shall be taken in the case of existing oak trees, or any trees protected under the Town of Danville Tree Preservation Ordinance. *

* Editor's Note: The Danville Tree Preservation Ordinance referred to herein has been codified as Section 32-79 of this Code.

d. *Turf Area Limitation.* Turf area shall be limited to twenty-five percent (25%) of the total site area excluding buildings and hardscape. Turf area may be increased to thirty-five percent (35%) of the total site area excluding buildings and hardscape when drought tolerant turfgrass is used in lieu of Kentucky Bluegrass. Turf should not be used on slopes in excess of a 4 to 1 ratio.

When total turf area exceeds twenty-thousand (20,000) square feet, drought tolerant turfgrass such as Tall Fescue shall be used in lieu of Kentucky Bluegrass.

Turf area limitations exclude public parks, golf courses, cemeteries and school recreation areas.

e. *Soil Conditioning and Mulching.*

1. A minimum of six (6) cubic yards of nitrified soil conditioner per one thousand (1000) square feet shall be incorporated into the top six (6") inches of soil.

2. A minimum of two (2") inches of mulch shall be added in non-turf areas to the soil surface after planting. Nonporous material shall not be placed under the mulch.

3. Grading shall be minimized to avoid disturbance. Topsoil shall be stockpiled and shall be reapplied during final grading.

f. *Irrigation.* These irrigation requirements apply to all non-single family residential landscapes and to those single family residences where automatic and semi-automatic irrigation systems will be installed.

1. Sprinkler heads with a precipitation rate of .85" per hour or less shall be used on slopes exceeding .15 percent or on slopes exceeding ten percent (10%) within ten (10') feet of hardscape to minimize runoff.

2. Valves and circuits shall be separated based on water use.

3. Drip or bubbler irrigation systems are required for trees. Bubblers shall be used that do not exceed one and one-half (1.5) gallons per minute per device.

4. Sprinkler heads must have matched precipitation rates within each control valve circuit.

5. Check valves are required where elevation differences may cause low head drainage.

6. Sprinkler head spacing shall be designed for head to head coverage. The system should be designed for minimum runoff and overspray onto nonirrigated areas.

7. All automatic irrigation systems shall be equipped with a controller capable of dual or multiple programming. Controllers must have multiple cycle start capacity and a flexible calendar program.

8. All irrigation systems shall be equipped with rain shut-off devices.

g. *Additional Requirements.* These additional requirements apply to all landscaping for new construction except single family residences.

1. No turf shall be allowed:

(a) In median strips.

(b) In areas less than eight (8') feet wide.

(c) Within four (4') feet of face of curb for any street.

2. Sprinklers. Sprinklers and sprays shall not be used in areas less than eight (8') feet wide.

3. Soil Conditioning and Mulching. Soil tests showing soil type, soil depth, uniformity and pH shall be required and submitted with landscape plans. Soil will be amended according to report recommendations.

4. Irrigation. Landscape plans submitted for review by the Town shall incorporate a water budget that includes:

(a) Estimated annual water use (in gallons).

(b) Irrigated area (in square feet).

(c) A monthly irrigation schedule for the plant establishment period and the following year. This irrigation schedule will include the following information for each valve.

Plant type

Precipitation rate

Flow rate in gallons per minute

Run times in minutes per day

Number of watering days per week (Turfgrass should be irrigated a maximum of once every three (3) days).

The following schedule shows how many inches of water turfgrass needs monthly, based upon climatic data for inland and coastal areas.

	Inches/Month			*Inches/Month*	
Date	***Inland***	***Coastal***	***Date***	***Inland***	***Coastal***
January	0	0	July	7.0	4.5
February	0	0	August 6.5	4.5	
March	1.5	1.0	September	5.0	4.0
April	3.0	3.0	October	2.0	1.5
May	5.5	3.0	November	0.5	0
June	6.5	5.0	December	0	0

h. *Noncompliance.* Willful noncompliance with the requirements of this section following plan approval, self-certification or initial landscape installation may be grounds for service limitations such as water flow restrictors to be imposed by the East Bay Municipal Utility District. (Ord. #91-14, § 3)

32-81—32-82 RESERVED.

32-83 PARK DEDICATION.

Division 1. GENERAL

32-83.1 Purpose.

This section is enacted under Section 66477 of the Government Code of the State of California and the Town's police power. The park and recreational facilities for which dedication of land and/or payment of a fee is required by this section are in accordance with the Recreation element of the General Plan. (Ord. #69-85, § 8-6201)

32-83.2 General Requirements.

a. *Subdivision and Parcel Maps*. At the time of approval of a tentative map or parcel map, the Town shall determine the land required for dedication or the amount of in lieu fee payment. As a condition of approval of a final subdivision map or parcel map, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the Town, for park or recreational purposes at the time and according to the standards and formula contained in this section.

b. *Building Permit*. As a condition of approval of a permit to build a residential structure, including a multiple family structure, mobile home, or second unit, an owner shall pay a fee for public park or recreational purposes in accordance with the same standards as if a final map or parcel map were required. (Ord. #69-85, § 8-6202)

32-83.3 General Standard.

It is found and determined that the public interest, convenience, health, welfare, and safety require that five (5) acres of property for each one thousand (1,000) persons residing within the Town be devoted to park and recreational purposes.

The park and recreational facilities for which dedication of land or payment of a fee or both are required, shall be in accordance with the Recreation, Park and Open Space Elements of the General Plan. (Ord. #69-85, § 8-6203)

Division 2. REQUIREMENTS AND STANDARDS

32-83.4 Formula for Dedication of Land.

The amount of land to be dedicated, or the fees to be paid, shall bear a reasonable relationship to the use of the park and recreation facilities by the future inhabitants of the development.

The amount of land dedicated or fees paid is based upon the number of units to be constructed, determined by the tentative map or building permits in projects without maps, and the household size.

The dedication of land, or the payment of fees, or both, shall be the proportionate amount necessary to provide five (5) acres of park area per one thousand (1,000) persons.

No fee or land dedication is required on a parcel for which dedication requirements have previously been met. (Ord. #69-85, § 86210)

32-83.5—32-83.10 Reserved.

32-83.11 Standard and Formula for Dedication of Land.

The amount of land to be dedicated shall be determined according to the following standards and formula:

a. The average number of persons occupying the type(s) of units to be constructed is multiplied by the park acreage standard, five (5) acres per one thousand (1,000) (.005); the product shall equal the minimum park acreage dedication for each unit of that type to be constructed.

Average number of persons/unit x .005 = minimum acreage dedication/unit.

b. The following table of population density applies:

Park Land Dedication Formula Table

Type of Dwelling	***Average Persons per Unit***		***Multiplied by Park Standard***	***Acreage Required per Dwelling Unit***
Single Family, Detached	3.02	x	.005	.0151
Single Family, Attached	2.04	x	.005	.0102
Duplex	1.8	x	.005	.009
Cluster, 3 or 4	1.87	x	.005	.00935
Cluster, 5 or more	1.76	x	.005	.0088

c. Land dedicated for a park shall be suitable in location and topography for development as a park with active recreational facilities.

d. Land offered for dedication for local park or recreational purposes shall have access to at least one (1) existing or proposed public street to be constructed in the subject project. The provision of street access and related improvements shall be made without consideration of credit. The Town may waive this requirement if it is unnecessary for the maintenance of the park area or access by residents.

e. The land to be dedicated and the improvements to be made under this section are subject to approval by the Town.

f. Dedication of the land shall be made in accordance with the procedures in Division 5. (Ord. #69-83, §8-6211; Ord. #2003-08, §1)

32.83.12 Standards and Formula for Fees in Lieu of Land Dedication.

a. *General Formula.* When a fee is to be paid in lieu of land dedication, the fee shall be equal to the value of the land prescribed for dedication in subsection 32-83.11 and in an amount determined in accordance with paragraph b. below.

b. *Amount of Fee*. When a fee is to be paid in lieu of park land dedication, the amount of the fee shall be determined at the time of final map approval or building; permit issuance, whichever is the time of fee collection, and shall be based upon the fair market value of the amount of land which would otherwise be required for dedication under subsection 32-83.11.

c. *Determination of Fair Market Value.* The predominate zoning of the Town is single family residential. Therefore, for the purpose of determining the in lieu fee, the fair market value of a buildable acre is based upon the value of land zoned for single family residential development. For purposes of this section, a buildable acre shall mean a typical acre of land located in other than an area on which building is excluded because of flooding, topography, easements, or other restriction and would otherwise be suitable for active park development.

As of May 3, 2005, the market value of a buildable acre of land in Danville zoned single family residential is $985,543. This amount was established by review of assessors records and recent sales within the Town.

d. *Establishment of Maximum Fee.* Based on the value of an acre of land as established in subsection 32-83.12.c multiplied by the acreage required for dedication established in subsection 32-83.11, the maximum in lieu fee shall be:

Single family, detached $14,882

Single family, attached $10,053

Duplex $8,870

Cluster, 3 to 4 units $9,215

Cluster, 5 or more units $8,673

e. *Determining Amount of Fee to be Paid.* The actual fee to be paid shall be determined at the time the fee is due. The fee shall be the amount set forth in the following table, multiplied by any increase in the Consumer Price Index for the San Francisco Bay Area from July 3, 2005 to the date of payment. In no event shall the fee exceed the maximum specified in subsection 32-83.12d. above.

Single family, detached $7,873

Single family, attached $5,318

Duplex $4,692

Cluster, 3 to 4 units $4,875

Cluster, 5 or more units $4,588

f. For the purposes of this subsection:

Single Family, Detached means an unattached residential dwelling unit constructed on a single parcel.

Single Family, Attached means an attached residential dwelling unit constructed on a separate parcel.

Duplex means two (2) attached residential dwelling units constructed on a single parcel.

Cluster, 3 or 4 means residential dwelling units attached in groups of three (3) or four (4) constructed on a single parcel.

Cluster, 5 or More means residential dwelling units attached in groups of five (5) or more constructed on a single parcel.

g. *Fees in Lieu of Land; 50 Parcels or Less.* Only the payment of fees, not the dedication of land, may be required in a development containing fifty (50) parcels or less.

However, nothing in this subsection prohibits the dedication and acceptance of land for park and recreation purposes in projects of fifty (50) parcels or less, where the developer proposes such dedication voluntarily and the land is acceptable to the Town.

(Ord. #69-85, §8-6212; Ord. #137, §§1, 2; Ord. #90-1, §§1 and 2; Ord. #90-21, §§1 and 2; Ord. 2003-08, §§2–4; Ord. 2005-02, §1)

32-83.13 Determination of Land or Fee.

Whether the Town accepts land dedication or elects to require payment of a fee in lieu thereof, or a combination of both, shall be determined by consideration of the following:

a. The natural features, access, and location of land in the subdivision available for dedication;

b. The size and shape of the subdivision and land available for dedication;

c. The feasibility of dedication;

d. The compatibility of dedication with the Danville Park and Recreation Element of the General Plan, and

e. The location of existing and proposed park sites and trails.

The Town determination as to whether land shall be dedicated, a fee be charged, or a combination of both, is final.

(Ord. #69-85, §8-6213)

32-83.14—32-83.19 Reserved.

Division 3

CREDIT; EXEMPTIONS

32-83.20 Credit for Developer-Provided Park and Recreation Improvements.

The value of park and recreation improvements provided by a subdivider to the dedicated land shall be credited against the fees or dedication of land required by this section. The Town reserves the right to approve such improvements before agreeing to accept the dedication of land and to require in lieu fee payments should the land and improvements be unacceptable.

(Ord. #69-85, §8-6220)

32-83.21 Credit for Private Open Space.

Where private open space or recreational facilities within the development, usable for active recreational uses, is provided and such area is to be privately owned and maintained by the future owner(s) of the development, the Town may give partial credit, not to exceed fifty (50%) percent against the requirement of land dedication or payment of fees. An application for partial credit should be made to the Town at the time the tentative map is submitted for official review so that dedication requirements can be determined as soon as possible.

(Ord. #69-85, §8-6221)

32-83.22 Standards for Credit.

The standards for partial credit are that:

a. Yards, court areas, setbacks, and areas required by the zoning and building ordinances and regulations or in conjunction with Planned Unit Developments shall not be included in the computation private open space;

b. The private ownership and maintenance of the area is adequately provided for by recorded written agreement, covenants or restrictions;

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

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

e. Facilities proposed for the open space are in substantial accordance with the provisions of the recreation element of the General Plan; and

f. The open space for which credit is given is a minimum of one (1) acre and provides four (4) park elements from among those listed

below:

1. Recreational open spaces, which are generally defined as parks areas for active recreation pursuits such as soccer, golf, baseball, softball, and football, have at least one (1) acre of maintained turf with less than five percent (5%) slope.

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

3. Recreational swimming areas, which are defined generally as fenced areas devoted primarily to swimming, diving, or both. They must also include decks, lawn area, bathhouses, or other facilities developed and used exclusively for swimming and diving and consisting of no less than fifteen (15) square feet of water surface area for each three percent (3%) of the population of the subdivision with a minimum of eight hundred (800) square feet of water surface area per pool together with an adjacent deck and/or lawn area twice that of the pool.

4. Recreation buildings and facilities are designed and used for the recreation needs of residents of the development.

g. Provision is made to grant up to one hundred percent (100%) credit if certain high demand facilities are constructed. The facilities so constructed must meet minimum size, configuration, and other standards as determined by the Town Manager or his designee, The facilities must be available for public use under a lease or similar agreement with a term of not less than twenty-five (25) years and be owned and maintained as described in subsection 32-83.22 paragraph b. above. The agreement shall provide for scheduled public use of not less than seventy-five percent (75%) of peak use times as determined by the Town.

h. The credit granted shall bear a reasonable relationship to the park and recreation needs of the subdivision residents met by the private facilities. The credit granted shall be related to the recreation facilities developed and the resulting reduction of the burden on public facilities to serve subdivision residents. The determination of the Town as to whether credit shall be given and the amount of credit is final.

(Ord. #69-85, §8-6222)

32-83.23 Exemptions.

a. A permit to repair or rebuild a dwelling unit damaged by act of God, fire, or other natural disaster, is exempt from this section if the permit to rebuild is applied for within one (1) year of the damage or destruction.

b. This section does not apply to a commercial or industrial subdivision, or a condominium project or stock cooperative which consists of the subdivision of airspace in an existing apartment building if that building is more than five (5) years old and no new dwelling unit is added.

(Ord. #69-85, §8-6223)

32-83.24—32-83.29 Reserved.

Division 4

DISPOSITION OF FEES AND LAND

32-83.30 Disposition of Fees.

a. The Town may use the money collected under this section only for the purpose of acquiring necessary land and developing new or rehabilitating existing park or recreational facilities reasonably related to serving the subdivision from which the fees are collected.

b. Fees shall be paid to the Town and shall be deposited into the Park Fund. Interest earned by park dedication fees shall be deposited to the Park Fund.

c. Collected fees shall be appropriated by the Town for a specific project to serve residents of the development project in a budgetary year within five (5) years after receipt of payment or within five (5) years after the issuance of building permits on one-half (1/2) of the lots created by the development project, whichever occurs later.

If the fees are not so committed, these fees shall be distributed and paid to the then record owners of the development project in the same proportion in which fees were assessed to each dwelling unit.

d. A report to the Town Council shall be made at least annually on income, expenditures, and status of the special fund.

(Ord. #69-85, §8-6230)

32-83.31 Schedule for Use of Land or Fees.

The Town shall develop a schedule specifying when and where it will use the land or fees, or both, to develop park or recreational facilities to serve residents of the subdivision. Such a schedule shall be developed in conjunction with the Town's Capital Improvement Program and revised as necessary. (Ord. #69-85, §8-6231)

32-83.32 Sale of Dedicated Land.

If during the time between the dedication of the land for park purposes and the commencement of first phase development, circumstances arise which indicate that another site would be more suitable for serving the park and recreation needs of the development's residents, the land may be sold and the resulting proceeds used to acquire or construct a more suitable site. (Ord. #69-85, §8-6232)

32-83.33—32-83.39 Reserved.

Division 5

PROCEDURES

32-83.40 Procedure.

a. *Land.* At the time of approval of the tentative map or parcel map or issuance of a building permit in projects without maps, the Town shall determine under subsection 32-83.11 the land required for dedication. An offer of dedication shall be recorded at the same tune as the final or parcel map.

b. *Fees.* If the Town requires in lieu fee payment, the Town will set the amount of land upon which the in lieu fee will be based at the time of tentative map approval or building permit issuance in projects without maps.

The fee shall be established using land values at the time of final map approval or building permit issuance in projects without maps and using the formula in subsection 32-83.12. When a fee is required, it shall be paid at the time of the recording of the final map or building permit, whichever occurs first.

c. *Other Covenants.* Open space covenants for private park or recreation facilities shall be submitted to the Town before approval of the final subdivision map or parcel map and shall be recorded contemporaneously with the map.

(Ord. #69-85, §8-6240)

32-84—32-91 RESERVED.

ARTICLE VIII

SPECIAL LAND USES

32-92 CEMETERIES. *

* For the statutory provisions regarding cemeteries, see Health & Safety Code §§7000 ff, 8100 ff and 8890 ff; for the provisions regarding the operation of private cemeteries, see Business and Professional Code §9600 ff; and for provisions regarding public cemeteries, see Government Code §37681 ff.

32-92.1 Permits.

a. *Permit Required.* No person shall dedicate, establish or maintain any cemetery, as defined in Section 32-2, or extend the boundaries of any existing cemetery at any place within the unincorporated territory of the County without first obtaining a permit as specified in this section.

b. *Permit Granted to Existing Cemeteries.*

1. Cemeteries: Any premises which on March 18, 1961, are dedicated and established as a cemetery are granted a permit for the purposes of paragraphs a and b. of this subsection.

2. Other Authorized Uses: Any premises which on March 18, 1961, are dedicated and established as a cemetery and on which any building or structure has been erected for the uses specified in paragraph b. of subsection 32-92.3 are granted a permit for such building and structures for the uses established on that date.

c. *Permit Authorized in Only Certain Land Use Districts.* An application may be made and a land use permit may be granted for the establishment of a cemetery in land use districts established by Article V and Article VI, except that no application shall be accepted or permit granted for premises located in R-B, C, and L-I districts.

d. *Permit Assignment.* No permit shall be assignable before the actual establishment of the cemetery or extension of an existing cemetery, nor shall the permit be used by any person other than the applicant or applicants in the establishment of a cemetery or extension of an existing cemetery.

32-92.2 Applications.

a. *Information Requirements.*

1. Any person desiring to obtain issuance of a permit required by this section shall file a written application with the Planning Commission, which shall administer this section.

2. The president and the secretary of the corporation which will operate the proposed cemetery and the owner or owners of the land to be included in the cemetery shall sign and verify the written application for a permit. The application, in addition to any other matter required by the Planning Commission, shall set forth in separate paragraphs or in attached exhibits the following information:

(a) The names and addresses of all persons owning any part of the property proposed to be used as a cemetery;

(b) The names and addresses of the officers and directors of the corporation which will operate the cemetery;

(c) A map showing the exact location, exterior boundaries, and legal description of the property proposed to be used as a cemetery; the location and names of all public roads located within one-half (1/2) mile from the property; the elevation in feet above sea level of the highest and lowest points on the property;

(d) A financial statement of applicant showing the financial ability of applicant to establish, care for, and maintain the proposed cemetery in a manner to prevent it from being or becoming a public nuisance.

(e) A statement setting forth whether the cemetery is to be established as an endowment-care or nonendowment-care cemetery and, if an endowment-care fund is to be or has been created, the amount then on hand and the method, scheme, or plan of continuing and adding to the fund in details sufficient to show that the cemetery will be maintained so as not to become a public nuisance.

3. If the application is only submitted for authorization of permitted uses under paragraph b. of subsection 32-92.3, information required by subparagraphs 4 and 5 need not be submitted.

4. In addition to the notice required by applicable County ordinances governing the procedure for the granting of permits required by this chapter, at least ten (10) days' notice by mail of any hearing on the application shall be given to the Secretary of the State Cemetery Board of California.

b. *Action by Board of Adjustment or Town Council.*

1. In granting any permit, the Board of Adjustment, or, on appeal, the Town Council shall review the location, design, and layout of the proposed cemetery and may condition the permit on requirements as to design, location, layout screening, and design of entrances and exits as the Board of Adjustment or the Town Council finds reasonably necessary to protect the health, safety, and welfare of the people of the County and to protect property values and the orderly and economic development of land in the neighborhood.

2. A permit shall be denied if the Board of Adjustment or, on appeal. the Town Council finds that:

(a) The establishment or maintenance of the proposed cemetery or the extension of an existing cemetery will or may jeopardize or adversely affect the public health safety, comfort, or welfare; or

(b) The establishment, maintenance, or extension will or may reasonably be expected to be a public nuisance; or

(c) The establishment, maintenance, or extension will tend to interfere with the free movement of traffic or with the proper protection of the public through interference with the movement of police, ambulance, or fire equipment and thus interfere with the convenience of the public or the protection of the lives and the property of the public; or

(d) The applicant, through the proposed endowment fund or otherwise, cannot demonstrate adequate financial ability to establish or maintain the proposed cemetery so as to prevent the proposed cemetery from becoming a public nuisance; or

(e) The proposed cemetery is not consistent with the General Plan of the Town or the orderly development and growth of the Town.

3. Before taking final action, the Board of Adjustment or, on appeal, the Town Council may require of the applicant or applicants any reasonable dedication of public streets or highways through the premises proposed to be used for the cemetery or extension of an existing cemetery, so as to prevent the cemetery from jeopardizing the public safety, comfort, or welfare. If the time required by the Board of Adjustment or Town Council for compliance with these conditions elapses before these conditions are met, the Board of Adjustment or Town Council may deny the permit.

c. *Renewal of Application.* If the Board of Adjustment or the Town Council denies its approval of any application heretofore or hereafter made for any permit required by this section, no new or further application for a permit shall be made on the same property or any part of it, as described in the previous application, until one (1) year after the date of the denial or approval.

32-92.3 Uses.

a. *Incidental Uses. T*he following uses of the premises are authorized as incidental uses in connection with the operation and maintenance of a cemetery:

1. An office building for administration of cemetery affairs;

2. Maintenance sheds or buildings for storage of equipment and supplies used in connection with the maintenance and operation of the cemetery grounds;

3. Greenhouse for the propagation of plants used in connection with maintenance of the cemetery grounds;

4. Caretaker's residence.

b. *Uses Permittable.* In addition to the uses included within the definition of "cemetery" contained in Article III, land use permits may be granted, at the time of initial application or by subsequent application, pursuant to the provisions of Section 30-4 for the following uses:

1. Crematory of calcinatory;

2. Mortuary;

3. Sale of markers;

4. Sale of caskets;

5. Sale of flowers or decorations;

6. Manufacture and sale of liners and/or vaults.

32-93 DRY CLEANING PLANTS.

32-93.1 Intent.

This section intends to identify the appropriate location of dry cleaning plants as the L-I; light industrial zone district and prohibit the establishment of any new dry cleaning plants in any other zone district within the Town of Danville. (Ord. #98-05, §2)

32-93.2 Definition.

"Dry cleaning plants" are hereby defined as the physical part of a dry cleaning business which involves the use of chemicals to process and clean clothing, draperies and other textile products. (Ord. #98-05, §2)

32-93.3 Permits.

Dry cleaning plants, as defined in subsection 32-93.2, shall be permitted in the L-I; light industrial zone district, subject to the approval of a land use permit. Dry cleaning plants shall not be permitted in any other zone district of the Town. (Ord. #98-05, §2)

32-93.4 Existing Dry Cleaning Plants.

Any dry cleaning plants which are established and operating on the date of the adoption of this section are permitted to remain and are hereby deemed an existing "legal nonconforming use" subject to the provisions of subsection 32-4.3 of the Municipal Code. (Ord. #98-05, §2)

32-94 REGULATION OF MARIJUANA ACTIVITIES

32-94.1 Definitions.

For purposes of this section, the following definitions shall apply:

Accessory structure shall mean a structure on the same parcel of land as a private residence and which is fully enclosed by solid walls and roof and is secured by locking door(s).

Marijuana shall have the same meaning as set forth in California Health and Safety Code Section 11018.

Marijuana cultivation shall mean the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof, and any and all associated business and/or operational activities.

Marijuana delivery shall mean the commercial delivery, transfer or transport, or arranging for the delivery, transfer or transport, or the use of any technology platform to arrange for or facilitate the commercial delivery, transfer or transport of marijuana, or any marijuana products to or from any location within the jurisdictional limits of the Town of Danville, and any and all associated business and/or operational activities.

Marijuana dispensary shall mean any facility or location, whether fixed or mobile where marijuana, or any marijuana products are provided, sold, made available or otherwise distributed to any person.

Marijuana processing shall mean any method used to prepare marijuana, or any marijuana products for commercial retail and/or wholesale sales, including but not limited to: cleaning, curing, preparation, laboratory testing, manufacturing, packaging and extraction of active ingredients to create marijuana related products and concentrates.

Marijuana products shall have the same meaning as set forth in California Health and Safety Code Section 11018.1.

Outdoor shall mean any location within the Town of Danville that is not within a fully enclosed and secured private residence or accessory structure.

Private residence shall mean a house, apartment unit, mobile home or other similar dwelling unit permitted by this Code.

(Ord. 2011-02, § 2; Ord. 2016-01, § 2; Ord. 2017-01, § 2)

32-94.2. Marijuana Dispensary as a Prohibited Use.

Marijuana dispensaries as defined in Section 32-94.1 are prohibited in all zones in the Town of Danville. No conditional or land use permit, variance, license or other entitlement shall be issued for the establishment or operation of a medical marijuana dispensary.

(Ord. 2011-02, § 2; Ord. 2016-01, § 2; Ord. 2017-01, § 2)

32-94.3. Outdoor Cultivation of Marijuana as a Prohibited Use.

Outdoor marijuana cultivation, as defined in Section 32-94.1, by any person or entity, is prohibited in all zones within the Town's jurisdictional limits. No conditional or land use permit, variance, license or other entitlement shall be issued for the establishment of such use or activity.

(Ord. 2016-01, § 2; Ord. 2017-01, § 2)

32-94.4. Indoor cultivation of Marijuana for Personal Use-Standards.

A person may cultivate and possess no more than six (6) marijuana plants inside a private residence and/or inside an accessory structure on the same parcel as the private residence, so long as the following standards are met:

a. The primary use of the property shall be as a residence. Marijuana cultivation is prohibited as a home occupation.

b. All areas used for cultivation of marijuana shall comply with Chapter 32 of this Code.

c Indoor grow lights shall not exceed 1,000 watts per light and shall comply with the California Building, Electrical and Fire Codes as adopted by the Town in Chapter 10 of this Code.

d. The use of gas products (CO2, butane, propane, natural gas, etc.) or generators for cultivation of marijuana is prohibited.

e. All fully enclosed and secure structures sued for the cultivation of marijuana shall have a ventilation and filtration system installed that shall prevent marijuana plant odors from existing the interior of the structure.

f. Any accessory structure used for the cultivation of marijuana shall be located in the rear yard of the property and shall comply with otherwise applicable setbacks for accessory structures. The yard in which the accessory structure is located shall be enclosed by a solid fence. This provision shall not apply to cultivation occurring in a garage.

g. Adequate mechanical locking or electronic security systems shall be installed on the primary residence or accessory structure where the cultivation is occurring.

h. Marijuana cultivation shall be limited to six marijuana plants per private residence, regardless of whether the marijuana is cultivated inside the residence or an accessory structure. The limit of six plants per private residence shall apply regardless of how many individuals reside at the property.

i. The private residence shall remain at all times a residence, with legal and functioning cooking, sleeping and sanitation facilities with proper ingress and egress.

j. Cultivation of marijuana shall only take place on impervious surfaces.

k. The marijuana cultivation shall not be visible by normal, unaided vision from any public place.

l. Any area within the primary residence or accessory structure in which marijuana cultivation is occurring shall not be accessible to persons under 21 years of age.

m. Written consent of the property owner to cultivate marijuana shall be obtained and kept on the premises.

n. A portable fire extinguisher that complies with all applicable regulations and standards shall be kept in the area being used for marijuana cultivation.

(Ord. 2017-01, § 2)

32-94.5. ***Delivery of Marijuana as a Prohibited Use.***

Marijuana delivery, as defined in Section 32-94.1, by any person or entity, including, but not limited to, clinics, collectives, cooperatives and dispensaries, is prohibited within the Town's jurisdictional limits. No conditional or land use permit, variance, license or other entitlement shall be issued for the establishment of such use or activity.

(Ord. 2016-01, § 2; Ord. 2017-01, § 2)

32-94.6. Processing of Marijuana as a Prohibited Use.

Marijuana processing, as defined in Section 32-94.1, by any person or entity, including, but not limited to, clinics, collectives, cooperatives and dispensaries, is prohibited in all zones within the Town's jurisdictional limits. No conditional or land use permit, variance, license or other entitlement shall be issued for the establishment of such use or activity.

(Ord. 2016-01, § 2; Ord. 2017-01, § 2)

32.94.7. Public Nuisances.

Any use or condition caused, or permitted to exist, in violation of any provision of this Section shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the Town pursuant to Code of Civil Procedure Section 731 or any other remedy available to the Town.

(Ord. 2016-01, § 2; Ord. 2017-01, § 2)

32-94.8. Civil Remedies.

In addition to any other enforcement permitted by this Section, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to Section 1-5.3 of this code against any person or entity that violates this Section.

(Ord. 2016-01, § 2; Ord. 2017-01, § 2)

32-95 REGULATION OF TOBACCO RETAILERS, HOOKAH AND VAPOR LOUNGES.

32-95.1. Definitions.

For purposes of this section, the following definitions shall apply:

a. *Electronic smoking device* shall mean an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances. An "electronic smoking device" includes a device that is manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vape pen, or a vapor pen.

b. *Hookah Lounge* shall mean any facility, building, structure, or location where customers smoke tobacco or other substances through one or more hookah pipes (also commonly referred to as a hookah or waterpipe).

c. *Significant tobacco retailing business* shall mean any tobacco retailing business which meets either of the following criteria:

1. Twenty percent or more of floor or display area is devoted to tobacco products, smoking paraphernalia, or both; or

2. Fifty percent or more of gross retail sales receipts are derived from tobacco products, smoking paraphernalia, or both.

d. *Smoking paraphernalia* shall mean cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the consumption or preparation of tobacco or cannabis products; electronic smoking devices and items specifically designed for the preparation, charging, or use of electronic smoking devices including cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, electronic smoking device batteries, electronic smoking device chargers, and any other electronic smoking device paraphernalia.

e. *Tobacco product* shall mean any of the following:

1. Any product containing, made from, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, and snuff.

2. Any Electronic smoking device.

3. Any component, part, or accessory of a tobacco product, whether or not it is sold separately.

4. *Tobacco product* does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for that approved purpose.

f. *Tobacco retailer* shall mean any person or entity that sells tobacco, tobacco products, electronic smoking devices, smoking paraphernalia, or any combination thereof, including retail or wholesale sales. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products or smoking paraphernalia sold, offered for sale, exchanged, or offered for exchange.

g. *Vapor Lounge* shall mean any facility, building, structure, or location where customers use one or more electronic smoking devices to deliver an inhaled dose of nicotine or other substance within the establishment. (Ord. #2018-09, § 2)

32-95.2. Restrictions on the Location of Tobacco Retailing.

In all land use districts where tobacco retailing would be an otherwise permitted use, it is unlawful to establish or open a tobacco retailing business if the physical location of the business is:

a. Within 1,000 feet of any parcel occupied by a public or private school, a park, playground or library.

b. Within 500 feet of any parcel occupied by any other tobacco retailing business. (Ord. #2018-09, § 2)

32-95.3. Prohibition of Specified Tobacco Related Uses.

The following land uses related to tobacco retailing and use are prohibited in all land use districts within the Town of Danville:

a. Hookah lounges.

b. Vapor lounges.

c. Significant tobacco retailing businesses. (Ord. #2018-09, § 2)

32-96-32-97 RESERVED.

ARTICLE IX

SIGNS AND OUTDOOR ADVERTISING *

* Editor's Note: Prior ordinances codified herein include portions of Ordinance No. 116.

32-98 SIGN CONTROL.

Division 1

GENERAL

32-98.1 General Provision.

All land within the Town limits of the Town of Danville is subject to this article. (Ord. #91-30, §2; Ord. #95-06, §3)

32-98.2 Purpose.

The purpose of this article is to provide minimum standards to safeguard life, health, property and the public welfare in keeping with the unique character of the Town of Danville (Town) by regulating the size, height, number, location, design, aesthetics, construction

materials, construction details, illumination, and maintenance of all signs. The Town acknowledges the need to effectively communicate commercial, civic, public service and other messages. At the same time it realizes that the attractiveness of the community is an important factor in preserving the general welfare of its citizens. Consequently, the Town has a goal of permitting signs which are attractive in design with a complimentary blend of colors and materials and appropriately placed on the building or site so that they compliment the business and the community.

These sign regulations are established to:

a. Promote and maintain economically viable commercial enterprises.

b. Provide effective communication to identify business activities and the nature of goods and services available.

c. Attract and direct persons to various destinations.

d. Protect property values by prohibiting signs that are incompatible with the purpose of this article.

e. Reduce hazards to motorists and pedestrians.

f. Prevent excessive and confusing signs.

g. Enhance the aesthetic and economic value of the entire community by providing a reasonable and comprehensive system of sign control within the general planning program and zoning provisions.

Exceptions to the sign standards herein are available through subsection 32-98.7 procedures, providing that the underlying intent of the proposal is in keeping with community goals and policies and the intent of this article. (Ord. #91-30, §2; Ord, #95-06, §3)

32-98.3 Definitions.

In this article, unless the context otherwise requires, the following definitions shall apply:

a. *A-frame sign* means a portable freestanding sign capable of standing without support or attachment.

b. *Abandoned sign* means a sign located on property which becomes vacant or unoccupied for three (3) months or more or which is obsolete because it pertains to an occupant, service, product, activity or land use which no longer exists on the site.

c. *Anchor tenant* means a tenant of a multi-tenant center with a minimum of eight thousand (8,000) gross square feet of tenant space.

d. *Building frontage* means the elevation of the building or individual tenant space (whichever is applicable) where there is public entrance and which faces either a public street or other public open place, such as a parking lot or plaza.

e. *Construction sign* means a temporary on-site freestanding sign which is designed and constructed to identify a residential or commercial project while it is under construction. This sign shall not be permitted in addition to on-site commercial signs or on-site real estate sign-residential.

f. *Dilapidated sign* means a sign where elements of the panel are visibly cracked, broken, discolored and are otherwise not in harmony with the rest of the surface area, or where the support structure or frame members are visibly corroded, bent, broken, torn or dented, or where the message can no longer be read under normal viewing conditions.

g. *Eave sign* means a sign hanging from an eave parallel to the wall of the building to which it is attached. The requirements for an eave sign are the same as for a wall sign.

h. *Fiber optic sign* means a sign consisting of fiber optics encased in a tube that transmits light. Fiber optic tubing can be formed into sign letters or artistic symbolism.

i. *Ground sign* means a sign independently supported in a fixed location and not attached in any way to a building or structure.

j. *Historic Downtown* means the boundary of Historic Downtown as shown on Exhibit A and includes Areas 1, 2, 3 and a portion of 4. *

* Editor's Note: Exhibit A, referred to herein, may be found at the end of this chapter.

k. *Indirect illumination* means a method of sign illumination where the source of light is not integral to the sign housing itself, but is directed at the sign from a distance.

l. *Internal illumination* means a method of sign illumination where a sign houses an internal electrical system of lighting. This type of sign Includes halo-lit and individually illuminated letters. This type of illuminated sign requires approval of a master sign program. (Note: Internally illuminated signs are prohibited in the Historic Downtown—Areas 1, 2, 3 and a portion of 4 of the Downtown Business District.)

m. *Mini-pole sign* means freestanding sign with a single pole base and a projecting sign located perpendicular to the public right-of-way. (Note: These signs are encouraged in the Historic Downtown—Areas 1, 2, 3 and a portion of 4 of the Downtown Business District.)

n. *Neighborhood identification sign* means a sign placed at the entry to a subdivision identifying the name of the subdivision.

o. *Neon sign* means a type of internally illuminated sign where exposed tubing houses color forming gases for signage purposes, not including neon used to illuminate the architectural features of a building where the neon tubes are not directly visible to the public.

p. *Nonaccessory sign* means an off-site sign advertising a business, activity or promotion that is not related to the property the sign is located on.

q. *Nonilluminated sign* means a sign without internal or direct external lighting.

r. *Off-site commercial sign* means a sign intended to provide directional information to the public regarding the location of commercial businesses.

s. *Political sign* means a sign which is intended to advertise support of, or opposition to, a candidate for public office or a proposition, or a sign intended to convey a noncommercial social, or political message.

t. *Public right-of-way* means that area reserved for public street, sidewalk and utility purposes. For purposes of this section, public right-of-way shall include all improvements within the right-of-way (including, but not limited to, utility poles, traffic signals, benches, hydrants and wires) and all plants and landscaping within the right-of-way. In most cases, the public right-of-way is limited to the curb-to-curb street width plus an additional ten (10') feet on each side of the street. However, the precise width of the public right-of-way on any street should be verified with the Town's Engineering Division.

u. *Real estate signs.*

1. *On-site real estate sign - residential* means a sign which serves solely to advertise the sale, rent or lease of a single family residential property where the sign is located. The sign is usually located out of doors or in a place where it is visible from out of doors.

2. *Off-site real estate - open house/directional sign* - residential means a sign intended to provide directional information to the public regarding the open house of a residential property. The sign is movable, not structurally attached to the ground, or to a building, structure, or another sign. The sign is usually double faced (e.g., Real Estate "Open House Sign").

3. *On-site - commercial sign* means a sign (which can be double sided) that serves solely to advertise the sale, rent or lease of the commercial premises where the sign is located, including investment residential properties. The sign is usually located out of doors or in a place where it is visible from out of doors.

v. *Roof sign* means a sign which is located on a roof slope or totally above a parapet or eave. This type of sign is a prohibited sign.

w. *Shingle/projecting sign* means a sign, other than a wall sign, which is suspended from or supported by a bracket and which projects outward at a perpendicular angle from the wall to which it is attached. (Note: Often times this sign is located under a building canopy.)

x. *Sign* shall be broadly construed to include an advertisement, name, figure, character, delineation, announcement, advertising structure, device, symbol or logo and any other thing of a similar nature designed to identify a person, business, commodity or service or otherwise attract attention. A "sign" shall include outdoor advertising displays, such as a street clock, barbershop pole or similar device used to identify a particular type of business activity. A "sign" shall not include a display of merchandise which is available for sale on the premises, nor shall it include a sign maintained entirely within a building which is more than three (3') feet behind a window in the building.

y. *Sign area.* One (1) face of a double-faced sign shall be calculated for the entire area of a sign. If a sign does not have a background, the area in square feet of the smallest rectangle enclosing the total exterior surface of a sign. If the sign is framed or contains a background, the sign area shall be calculated by the entire area of the sign, including the background.

z. *Sign height* means the dimension determined by measuring the distance between the highest point of the actual sign face and the finished grade directly below it.

aa. *Sign rider* means an attachment to an existing on-site or off-site real estate sign advertising extra amenities (e.g., open house, pool, number of bedrooms, lot size, etc.).

bb. *Sign sight triangle* means a triangular area at a street corner or driveway intersection determined by the intersection of two (2) prolonged curb lines. The area of the triangle is calculated from the intersection of the prolonged curb lines, measuring twenty-five (25') feet in each direction from the corner to the hypotenuse of the triangle. The sides of the triangle shall be twenty-five (25') feet long. (Note: For a ninety (90) degree intersection, the hypotenuse is 35+/-feet.)

cc. *Street frontage* means the length of the property line which is also the right-of-way of a public street. In the case where a lot faces more than one (1) street, the longest such frontage of the lot shall be the street frontage.

dd. *Subdivision reader boards* means an off-site subdivision sign that conforms with the Town-approved Reader Board Program. These signs are temporary signs that direct the public to residential subdivisions that have lots for sale. Installation of these signs requires a sign permit.

ee. *Temporary/promotional sign* means a nonpermanent sign intended to be used for a limited period of time, (or as specified in a temporary sign permit). These types of signs include, but are not limited to, A-frame signs for special promotions or events, banners (located inside or out), window decals advertising a product, service or special promotion, decorative flags, holiday decorations or nonpermanent window signs advertising the business, a service, product, promotion, sale or event.

ff. *Tenant frontage* means the width of a tenant space defined by lease lines in which there is a public access that faces either a public street or other public open space.

gg. *Tethered sign* means a sign which is anchored by a rope, wire, chain or similar method (e.g., a large helium-filled balloon).

hh. *Wall area.* Wall area is measured by calculating the continuous uninterrupted wall area (not including windows) on the elevation where a sign is to be placed.

ii. *Wall painted sign* means a sign which is painted on the exterior wall of a building.

jj. *Wall sign* means a sign which is erected, printed, painted, incorporated into, suspended from or otherwise affixed to a wall, overhang, or covered walkway of a building or structure in an essentially flat position or with the exposed face of the sign in a location parallel to the plane of the wall.

kk. *Window sign* means a permanent sign erected on a building window or a sign located indoors and within three (3') feet of a window or building opening which is clearly visible and readable from a street or public place.

(Ord. #91-03, §2; Ord. #95-06, §3; Ord. #96-07, §2)

Division 2

ADMINISTRATION AND PROCEDURES

32-98.4 Administration.

The Chief of Planning shall administer and enforce this article. Each officer and employee of the Town shall assist and cooperate with the Chief of Planning in enforcement of this article. (Ord. #91-30, §2; Ord. #95-06, §3)

32-98.5 Owner's Consent.

No sign may be placed upon a property without the consent of the property owner. ([Ord. #91-30, §2; Ord. #95-06, §3)

32-98.6 Permits Required.

A sign permit provides Town review of signs for all businesses. The standards contained in this article are intended to be maximums. The Town may impose more strict standards than these regulations if the proposed sign is determined to exceed what is necessary for adequate identification.

a. A sign permit is required prior to placing a sign (including individual letter signs) in the Town, unless the sign is specifically exempted under this article.

b. All signs not in conformance with this article, existing upon the date of adoption of this article, are permitted to re- main in use until such time as there is a request to change the sign or application for a new sign permit for any sign related to the subject business. Use of temporary/promotional signs are ex- empt from this section. Sign permits for new signs may be conditioned upon removal of existing signs made illegal by this article.

Any alteration or change of face to an existing sign is subject to the provisions of this article. The owner, or his assigned agent, shall obtain a sign permit before making such alterations to an existing sign. However, no permit is required for repainting a sign the same color, cleaning or other normal maintenance or repair of a sign, as long as the sign is not structurally modified in any manner. A change of face for a tenant of a multi-tenant sign is permitted without requiring the entire sign to conform with this article, if the face change is less than fifty-one (51%) percent of the total sign area. If the face change for a multi-tenant sign is greater than fifty-one (51%) percent of the total sign area, then the sign shall be subject to subsection 32-98.32 and shall be amortized over a period of six (6) months.

c. Signs in existence on the date of adoption of this article which have been granted an exception by the Town of Danville, may change a sign face providing that the factors justifying the original exception still pertain.

d. Prior to installation, a building permit shall be required for all signs attached to a structure or anchored to the ground.

(Ord. #91-30, §2; Ord. #95-06, §3)

32-98.7 Exceptions.

Upon application, the Design Review Board or Chief of Planning may grant an exception to a regulation in this article, or at the discretion of the Chief of Planning, the application may be referred to the Planning Commission. An exception may be granted when the following conditions are found to be present:

a. The proposed exception conforms as closely as practicable to the regulations pertaining to sign size, number, and location; and

b. The proposed exception is not inconsistent with the intent and purpose of the sign regulations; and

c. *Either:*

1. Strict adherence to the sign regulations does not allow adequate identification of the site because of the site's location or configuration, or because the proposed business or use is obscured from view by adjacent buildings and/or vegetation; or

2. The architectural style, materials or construction elements of the building are such that a sign placed in conformance with this chapter would conflict with other aesthetic considerations.

(Ord. #91-30, §2; Ord. #95-06, §3)

32-98.8 Exemptions.

The following signs are exempt from obtaining a sign permit but shall comply with all other regulations of this article:

a. A sign placed by a public utility or the Town of Danville for the safety or welfare of the public, such as a sign identifying high voltage, underground cable or related to the construction of Town capital improvement projects.

b. An official fire or police related sign, or a sign required to be posted and maintained by law or governmental order, such as a public

health warning, traffic, parking or similar regulatory device, legal device or warning at a railroad crossing.

c. A flag or emblem of a government which is smaller than three (3) feet by five (5) feet in size and displayed on a maximum twenty-five (25) foot pole.

d. A bulletin board, not exceeding six (6) square feet in area and six (6) feet in height, on the site of an educational or religious institution relating to an activity conducted at, or sponsored, by the institution.

e. A professional nameplate, street address or historic tablet sign less than two (2) square feet in area.

f. Informational signs such as hours of operation, "open" signs (including neon) located inside a window less than four (4) square feet, directional signs, credit cards honored or membership in civic, business or professional organizations. Such signs, or group of signs, may not exceed a total of six (6) square feet in area at an individual establishment.

g. A barber pole sign not exceeding three (3) feet in height.

h. Any of the following temporary signs where such signs do not exceed six (6) square feet in area and six (6) feet in height. These signs may not be placed in the public right of way.

1. A political sign, provided it is removed within ten (10) days after the election.

2. A special event sign advertising a community-wide event of general interest and sponsored by a noncommercial group, placed for thirty (30) days or less.

3. One (1) sign placed on a building or site designating the property for sale or lease.

4. Open house/directional—residential real estate signs.

i. Changeable copy or message portion of a theater marquee or reader board.

j. A sign placed on the interior of a building that cannot be seen by the general public from the exterior.

k. Holiday decorations, light and displays, placed no more than forty-five (45) days before a holiday and removed within ten (10) days after the holiday, except the Christmas holidays where they shall be removed within thirty (30) days after Christmas.

l. Construction and/or advisory signs installed by the Town of Danville.

m. Special event signs on the Town-installed banner poles.

(Ord. #91-30, §2; Ord. #95-06, §3)

32-98.9 Prohibited Signs.

Use of the following signs is prohibited:

a. Tethered signs;

b. Signs designed, placed, or oriented for freeway exposure, except for building frontages facing in the direction of the freeway;

c. Mobile, moving, flashing or blinking signs;

d. Nonaccessory signs;

e. Dilapidated signs;

f. Portable trailer signs;

g. Signs attached to or painted on a sound wall, fence, or vehicle parked for the purpose of advertising to the public;

h. Signs supported by exposed wires or cables;

i. Roof signs;

j. Electrified reader boards with a moving display;

k. All temporary or political signs located in the public right-of-way, fixed to any improvement, structure or landscaping located in the public right-of-way or located on any property or structure owned by the Town of Danville. Notwithstanding the above, temporary signs may be tied to the Danville Oak Tree on Diablo Road in a manner which does not injure the tree so long as the signs are limited to community events and announcements and are removed within forty-eight (48) hours after they are first affixed to the tree;

l. Laser signs;

m. No person shall place or maintain, or cause or allow to be placed or maintained, in any manner, any advertising or promotion of any tobacco products on an advertising display sign in a publicly visible location within one thousand six hundred (1,600) feet of the perimeter of an elementary or secondary school, public park or public playground, except for signs:

1. Located inside a commercial establishment, unless such advertising display sign or promotion is attached to, affixed to, leaning against, or otherwise in contact with any window or door in such a manner that it is visible from a street, sidewalk or other public thoroughfare;

2. On vehicles, other than mobile billboards;

3. On any sign located inside or immediately outside a commercial establishment if the sign provides notice that the establishment sells tobacco products, so long as the sign does not promote any brand of tobacco product;

4. On tobacco product packaging.

(Ord. #91-30, §2; Ord. #95-06, §3; Ord. #96-07, §2; Ord. #99-06, §4)

32-98.10 Applications.

A sign permit application form is filed with the Planning Division. The application shall contain the name, address and telephone number of the applicant and the location for the building, structure or property on which the proposed sign(s) is to be placed. Sign plans shall be drawn to scale and shall be clear and legible and consistent with professional standards.

The sign application shall include the following:

a. Architectural details, site plan information and elevations of the building in context to the project architecture.

b. The application shall include such other information, material samples, colors, attachment details or exhibits as the Planning Division may require.

c. The application shall be accompanied by (1) filing fees and (2) the written consent of the legal owner of the property on which the sign will be placed.

(Ord. #91-30, §2; Ord. #95-06, §3)

32-98.11 Fee.

The fee for a sign permit shall be established by Town Council ordinance. The fees are nonrefundable.

If work begins without a sign permit, a staff investigation will be conducted and the applicant shall pay a fee equivalent to double the usual fee (whether or not a permit is subsequently issued). (Ord. #91-30, §2; Ord. #95-06, §3)

32-98.12 Criteria for Review.

The Chief of Planning shall check the application as to design, location and other relevant factors and may require modifications in the applicant's proposal. The following criteria shall be used in reviewing the application:

a. The sign shall be consistent in character with the Town's Commercial Design Guidelines.

b. The sign shall be compatible with project architecture and no larger than necessary for adequate identification.

c. Signs shall serve primarily to identify the business, establishment or type of activity conducted on the premises; or the product, service or interest being exhibited or offered for sale, rent or lease on the premises.

d. Shall not excessively compete for the public's attention.

e. Signs shall be harmonious with the materials, color, texture, size, shape, height, location, and design of the project architecture; and shall be in scale with the architectural style of the building, property and environment of which they are a part.

f. Sign designs shall be consistent with professional graphic and structural standards.

g. Sign illumination, where allowed by provisions in this article, shall be at a lowest level consistent with adequate identification and legibility.

(Ord. #91-30, §2; Ord. #95-06, §3)

32-98.13 Master Sign Program Permit.

The term "master sign program permit" means a sign permit to allow the owner or occupants of an individual building or group of buildings having a common architectural style (including shopping centers) to develop a comprehensive sign program for the complex. The intent of the master sign program is to ensure the compatibility of signs within the building or complex and compatibility with the project architecture. Each sign under a master sign program must demonstrate a unified design theme regarding proportion and structural support, and shall conform to the following standards:

a. *Ground Signs.* Project ground signs shall follow subsection 32-98.14g. standards and are allowed in addition to the standards in this section.

b. *Area*. For multi-tenant shopping centers, the maximum square footage allowed is .75 square feet per one (1) linear foot of tenant frontage for all signs. For individual freestanding buildings, the maximum square footage allowed shall conform with the sign standards in subsection 32-98.14 of this article.

c. *Number*. No more than two (2) per tenant space shall be established, except that three (3) signs may be utilized for corner tenants. However, no more than one (1) sign shall be at the same level and oriented in the same direction.

d. *Criteria*. The following criteria shall be reviewed for consistency in a sign program.

1. Background color;

2. Size, shape and form;

3. Lettering style;

4. Lettering color;

5. Location;

6. Material;

7. Lighting method.

e. *Letter Height.* Sign lettering shall not exceed a maximum of eighteen (18") inches in height; unless it can be demonstrated that the letter size is in proportion with the project architecture, compatible with other signs in the development and in scale with the wall area it is mounted on. It must also be demonstrated that the sign is no larger than necessary to be legible to the public.

f. *Illumination.* All lighting methods and fixtures shall be reviewed with the sign permit.

1. Indirect Illumination. Lighting intensity shall be the minimum required to be legible. All light sources shall be directed away from view of the general public and appropriately screened.

2. Internal Illumination.

(a) Location. Internally lighted signs are permitted for project anchor tenants and project identification signs. No internally lighted signs are permitted in Areas 1, 2, 3, and a portion of 4 (see attached map) of the Downtown Business District.*

* Editor's Note: The map referred to herein may be found as Exhibit A, located at the end of this chapter.

(b) Design. Halo-lit signs and internally lighted signs with opaque backgrounds are preferred over signs with light colored backgrounds and dark lettering.

(c) Illumination. Lighting intensity shall be the minimum required to be legible.

(d) Permit. A master sign program permit is required for all projects with internal illumination. Sign programs which include internal illumination may, at the discretion of the Chief of Planning, be referred to the Planning Commission.

(e) Exceptions. Exceptions to this subsection may only be approved by the Planning Commission.

g. *Approval.* The master sign program permit shall be issued by the Chief of Planning after Design Review Board review and approval, or at the discretion of the Chief of Planning, the application may be referred to the Planning Commission for consideration and action.

h. *Installation.* After a master sign program permit is approved, no person shall install individual signs without first obtaining a separate sign permit, unless the master sign permit specifically allows administrative approval prior to issuance of a building permit.

i. *Exception.* Artistic sign programs are encouraged. However, if a program is designed to be consistent with the architectural style of the project, but does meet these standards, the program may be reviewed on its own merit and shall require approval of an exception, per subsection 32-98.8 of this article.

(Ord. #91-30, §2; Ord. #95-06, §3)

32-98.14 Sign Standards.

The following standards govern sign approvals which can be acted on administratively by the Planning Division. Applicants must complete a sign application per subsection 32-98.6 requirements. All exceptions to these standards shall be reviewed by the Design Review Board per subsection 32-98.7 of this article.

a. *General.*

1. Sign Depth. All signs must have a minimum thickness of one and one-half (1 1/2") inches. Window or other similar signs are exempt from this requirement.

2. Number. No more than two (2) signs per premises or tenant occupancy (whichever is greater), exclusive of ground signs and temporary/promotional signs.

3. Placement. More than one (1) sign may be located on the same elevation as long as the primary visual orientation is different.

4. Letter Height. Sign lettering shall not exceed a maximum of eighteen (18") inches in height, however, ten (10") inch letter height is generally assumed to be adequate for most signs when the buildings are located close to a street or pedestrian travelway.

5. Design. All signs shall be designed to be in scale with the project design and compatible with the architectural character of each project.

b. *Wall Sign.*

1. Area. Maximum sign area shall be limited to a maximum of .75 square feet per one (1') linear foot of building frontage or twenty-five percent (25%) of the receiving wall area, whichever is less, up to a maximum sign area of seventy-five (75) square feet.

2. Height. The maximum height limit shall be fifteen (15') feet, measured from finished grade to top of sign.

3. Illumination. In Areas 1, 2, 3 and a portion of 4 (see attached map) of the Downtown Business District only indirect illumination is permitted.*

* Editor's Note: The map referred to herein may be found as Exhibit A, located at the end of this chapter.

4. Design. The design of the sign shall be compatible with the architectural style of the building and shall be in proportion and scale with the wall upon which it is mounted.

c. *Wall Painted Sign.*

1. General. Signs shall contain illustrations which shall not pose a hazard to public health, safety or welfare.

2. Number. No more than one wall painted sign per premise or tenant occupancy (whichever is greater). Note: exceptions to the number of wall painted signs may be considered in some situations -see Placement restrictions.

3. Design. All wall painted signs shall be designed to be in scale with the project design and compatible with the architectural character of the building upon which it is placed.

4. Approval. All permit applications for wall painted signs shall be approved by the Design Review Board.

5. Area. Sign area shall be limited to a maximum of .75 square feet per one (1') linear foot of building frontage or twenty-five percent (25%) of the receiving wall, whichever is less, up to a maximum sign area of seventy-five (75) square feet.

6. Orientation. Wall painted signs are permitted only on building walls that are parallel to the street frontage of the subject property. For instances where multiple street frontages are present, the wall painted sign shall be placed on the building wall that is parallel to the street frontage of the street with the higher usage.

7. Removal. Wall painted signs associated with the operation of a business or use which ceases to operate and/or wall painted signs which have been defaced or damaged and are not repaired to their original state shall be considered to be nonconforming signs subject to the provisions of subsection 32-98.32 of this article.

d. *Awning Sign.*

1. Area. Maximum sign area shall be limited to a maximum of .75 square feet per one (1') linear foot of awning length or seventy-five percent (75%) of the flat vertical plane of the awning where the sign is located, whichever is less, up to a maximum sign area of twenty (20) square feet per awning.

2. Number. One (1) sign per elevation and a maximum of up to two (2) signs per business.

3. Height. The maximum height limit for any lettering on the awning shall be twelve (12') feet, measured from finished grade.

4. Location. Sign letters shall be located on a flat vertical plane of the awning. The minimum clearance under a canopy located over a pedestrian walkway shall be seven (7') feet.

5. Illumination. While indirect lighting is permitted for pedestrian walkways under the canopy of the awning, internally illuminated canopies are prohibited.

6. Design. The design and shape of the awning shall be in scale with the architectural style of the building.

e. *Shingle Sign and Projecting Sign.*

1. Area. Maximum sign area shall be five (5) square feet.

2. Height. Minimum sign clearance shall be seven (7') feet to the bottom of the sign. Projecting signs shall not project more than five (5') feet from the wall upon which they are attached.

3. Illumination. Only indirect illumination is permitted in Areas 1, 2, 3 and 4 (see attached map) of the DBD: Downtown Business District.*

* Editor's Note: The map referred to herein may be found as Exhibit A, located at the end of this chapter.

4. Design. The sign shall be compatible with the architectural style of the building and shall be in proportion and scale with the space upon which it is mounted.

f. *Window Sign.*

1. Area. Maximum sign area shall be twenty-five percent (25%) of the contiguous window area.

2. Design. The sign shall be compatible with the architectural style of the building and shall be in proportion and scale with the space it is located in. The sign shall be applied to the window in a professional manner and shall be of a permanent nature.

3. Use of Neon. For neon sign standards, see subsection 32-98.19c. of this article.

g. *Freestanding Signs.* Freestanding signs are allowed in addition to other project signs providing they meet the following standards:

1. Ground Sign.

(a) Area. The maximum sign area shall be thirty-five (35) square feet for lots with a minimum lot frontage of one hundred twenty-five (125') feet. The maximum sign area shall be twenty (20) square feet for lots with one hundred to one hundred twenty-four (100'-124') feet of lot frontage. The base or support structure for the sign is not calculated as a part of the sign area unless it is designed to form an integral background for the display.

(b) Height. Maximum height limit shall be seven (7') feet measured from finished grade.

(c) Location. Ground signs shall be located a minimum of three (3') feet from the back of the sidewalk, and minimum two (2') feet back from the property line, whichever is greater. A ground sign may only be located on a property where the primary structure is set back a minimum of twenty (20') feet from the public right-of-way. No sign shall be located within the public right-of-way, on a public utility easement or within the sign sight triangle for a street or driveway.

(d) Number. For single tenant buildings or projects no more than one (1) ground sign is allowed. These signs are allowed in addition to the maximum number of tenant identification signs allowed in the project.

(e) Minimum lot width. No ground signs may be established on lots with a minimum lot dimension of less than one hundred (100') feet, measured at the street.

(f) Message. The sign shall be limited to the address of the premises, and either 1) name of building complex, or 2) the logo and/or name of a single tenant.

(g) Illumination. Only indirect illumination is permitted, unless approved under a master sign program (see subsection 32-98.13).

2. Mini-Pole Sign.

(a) Area. Maximum sign area shall be six (6) square feet. The base or support structure for the sign shall not be calculated as a part of the sign area unless it is designed to form an integral background for the display.

(b) Height. Maximum height limit shall be seven (7') feet to the top of the support structure of the sign plus an additional one (1') foot for a decorative element extending above, such as a light fixture.

(c) Location. The edge of a mini-pole sign shall be located a minimum of one (1') foot back from the sidewalk, or one (1') foot back from the property line, whichever is greater. No sign shall be located within the public right-of-way or within the sign sight triangle for a street or driveway.

(d) Number. One (1) mini-pole sign shall be allowed per property.

(e) Minimum lot width. No minimum lot width required.

(f) Illumination. Only indirect illumination is permitted.

3. Off-Site Commercial Identification Sign.

(a) Area. Maximum sign area shall be determined by the Design Review Board. The base or support structure for the sign shall not be calculated as a part of the sign area unless it is designed to form an integral background for the display.

(b) Height. Maximum height limit shall be seven (7') feet to the top of the support structure of the sign plus an additional one (1') foot for a decorative element extending above, such as a light fixture.

(c) Location. The edge of the off-site commercial identification sign shall be located a minimum of one (1') foot back from the sidewalk, or one (1') foot back from the property line, whichever is greater. No sign shall be located within the public right-of-way or within the sign sight distance triangle for a street or driveway.

(d) Number. One (1) off-site commercial identification sign may be permitted in the Downtown Business District for every two (2) sides of a connecting street intersection with Danville Boulevard, Hartz Avenue, Railroad Avenue, Diablo Road, Hartz Way and San Ramon Valley Boulevard.

(e) Minimum lot width. No minimum lot width required.

(f) Illumination. Only indirect illumination is permitted.

4. Neighborhood Identification Sign.

(a) Area. Maximum sign area for neighborhood identification signs shall be thirty-five (35) square feet, unless the sign structure is tended to be a focal landscape feature, then the maximum size is subject to review and approval by Planning Division.

(b) Height. Maximum height limit shall be seven (7') feet, measured from finished grade.

(c) Location. A neighborhood identification sign may be located on a landscape wall, but not on the architectural soundwall of a development, if applicable. No sign shall be located within the public right-of-way, on a public utility easement or within the sight distance triangle (see Subdivision Ordinance definition) for a street or driveway.

(d) Number. One (1) neighborhood identification sign shall be permitted per street entrance, but no more than three (3) neighborhood identification signs per development.

(e) Maintenance. The neighborhood identification sign shall be maintained in good condition by a Homeowners Association, or shall be subject to correction by the Town and the cost assessed back to the Homeowners Association.

(Ord. #91-30, §2; Ord. #95-06, §3)

32-98.15 Temporary/Promotional Signs.

Temporary/promotional signs are intended to be displayed for a limited period of time, are not limited to a certain type of material and shall be nonilluminated. The applicant shall file an application of a temporary/promotional sign permit prior to installation.

a. *General.*

1. Permit. Prior to issuance of a temporary/promotional sign permit, the applicant must have a permanent sign application on file with the Town of Danville.

2. Duration. The time limit for display of a temporary/promotional sign for a new business shall not exceed sixty (60) consecutive days. Thereafter, the time limit for temporary/promotional signs shall not exceed fifteen (15) consecutive days and forty-five (45) total days per calendar year per business.

3. Material. Exterior signs shall be made of a durable material other than standard business paper.

4. Area. The sign area for temporary/promotional signs shall be calculated in addition to the permitted area allowed for permanent tenant signs.

5. Number. A maximum of two (2) temporary promotional signs per business is permitted at any given time.

b. *Freestanding A-Frame Signs.*

1. Area. Freestanding temporary/promotional signs (e.g., A-frame signs) shall be limited to five (5) square feet.

2. Height. The maximum sign height shall not exceed 2.5 feet.

3. Location, The sign shall not obstruct a pedestrian path or be located in the public right-of-way.

4. Message. These signs shall only be used to advertise a special promotion or event, not the name of the business.

c. *Promotional Banners.*

1. Area. Maximum sign area shall be twenty (20) square feet.

2. Height. Maximum height limit shall be twelve (12') feet, measured from finished grade.

3. Location. No two (2) banners shall face the same direction.

4. Number. No more than one (1) banner per lot frontage.

5. Attachment. All temporary/promotional signs shall be properly attached to a window, wall or fence and shall not be fixed to a roof or tree.

d. *Temporary/Promotional Window Signs.*

1. Area. Maximum sign area shall be twenty-five percent (25%) of the contiguous window area.

2. Design. Window signs may be painted on the window or a sign may be placed on the inside of the window facing out. All signs shall be well designed and properly installed.

3. Exemption. Temporary/promotional window signs which are established and maintained in a manner consistent with subsection 32-98.15 of this article shall not require a Temporary/Promotional Sign Permit. The date of installation of temporary/promotional window signs and the aggregate number of display days for the current calendar year (inclusive of the current display) shall be indicated by one (1") inch letters located on the face of the sign.

(Ord. #91-30, §2; Ord. #95-06, §3)

32-98.16 Real Estate Signs.

The following three (3) types of real estate signs are intended to be utilized when a property is for sale and/or lease. The purpose of this section is to regulate the size, number, location and duration of these temporary signs.

a. *On-Site Real Estate Sign - Residential Conditions:*

1. Area. One (1) real estate sign per premises, not to exceed six (6) square feet in area (including sign riders).

2. Height. The maximum height shall be six (6') feet, measured from grade level to top of sign.

3. Location. Signs located at the corner of a lot shall be placed a minimum of ten (10') feet back from the right of way line or ten (10') feet back from edge of pavement (whichever is greater). All signs shall be situated so they do not encroach into the pedestrian walkway or obstruct the line of sight of motorists.

4. Message. Information on the sign shall be restricted to the sale, lease or rental of the premises on which the sign is located.

5. Period of Use. The sign shall be removed from the premises within ten (10) days after the property is no longer for sale, lease or rent. For purposes of this article, "sale" means the close of escrow and "lease/rent" means occupancy by a tenant.

b. *Off-Site Real Estate - Open House/ Directional Signs - Residential.* Off-site real estate - Open house/directional signs - residential directing public to an open house are permitted in the public right-of-way under the following conditions:

1. Area. The signs may be double-faced and each side shall not be more than four (4) square feet in area.

2. Height. Maximum height limit shall be three (3') feet from grade level to top of sign.

3. Number. Each real estate company may place only one (1) sign per leg (direction) at any one (1) intersection. (For example: Only one (1) off-site real estate sign per corner per real estate company shall be permitted no matter how many listings are located in that

direction.)

4. Location. Signs are permitted on major arterial/collector intersections (see Figure 7 in the Danville 2005 General Plan), with a maximum of eight (8) signs per intersection at any one (1) time, when placed such that the sign does not encroach into the pedestrian walkway or obstruct the line of sight of a motorist.

Signs are permitted on secondary streets with a maximum of four (4) signs per intersection at any one (1) time, when permission from the affected property owner has been secured, if the sign is to be placed on privately owned property. No signs shall be allowed on fences, utility poles, sidewalks, median strips, traffic islands, or within a travel way of a street.

5. Message. Sign "riders" are not allowed to be placed on any off-site real estate - open house/directional - residential sign.

6. Period of Use. Use of these signs are only permitted on one (1) weekday (Agent Tour Day), plus Saturdays, Sundays and holidays between 10:00 a.m. and sunset, provided a representative of the real estate firm or the property owner is present on the property at all times while such signs are displayed. The signs must be removed after the closing of the open house. Use of these signs may be permitted during prohibited days and hours when authorized through a sign permit. Examples of use would be a special open house promotion.

7. Violations. All signs in violation are subject to seizure by the Town of Danville. (Note: These signs will be removed and stored at the Town Offices for a maximum of ten (10) days. After ten (10) days the Town will dispose of the sign if not claimed. Signs may be retrieved by contacting the Community Preservation Division and paying a fifteen ($15.00) dollar retrieval fee per sign).

c. *On-Site Commercial Real Estate Signs.* On-site commercial real estate signs are permitted for multiple family investment property, commercial, industrial and office projects after construction under the following conditions:

1. Area. On-site commercial signs shall meet the following standards:

(a) In the case of commercial, industrial, office or multiple family investment properties for sale, the following sign area standards shall apply:

(1) Lots with a minimum of one hundred twenty-five (125') lineal feet of street frontage are allowed one (1) double faced sign not to exceed thirty-two (32) square feet in area for each face of the sign. In the case of corner lots, two (2) double faced signs with each face not to exceed sixteen (16) square feet; or lots with less than one hundred twenty-five (125') lineal feet of street frontage are allowed one (1) sign no larger than sixteen (16) square feet in area or in the case of corner lots, two (2) double faced signs with each face not to exceed eight (8) square feet.

(b) In the case of commercial, industrial, office or multiple family investment properties for lease or rent, the maximum sign area shall be sixteen (16) square feet.

2. Height. Wall signs shall not exceed a height limit of fifteen (15') feet from finished grade. Ground signs shall not exceed a height limit of seven (7') feet from finished grade, unless set back a minimum of thirty (30') feet from any public right-of-way in such case the maximum height limit shall be twelve (12') feet.

3. Number. One (1) nonilluminated sign on each street frontage which serves solely to advertise the sale, lease or rental of the premises where the sign is located, is permitted in commercial, office, industrial and planned commercial developments.

4. Location. Each sign must be situated so it does not encroach into the pedestrian walkway or obstruct the line of sight of a motorist.

5. Message. Information on the sign shall be limited to the sale, lease or rental of the premises where the sign is located.

6. Period of Use. The sign shall be removed from the premises within ten (10) days after the property is no longer for sale, lease or rent. For purposes of this article, "sale" means the close of escrow and "lease/rent" means occupancy by a tenant.

(Ord. #91-30, §2; Ord. #95-06, §3)

32-98.17 Construction Signs.

Application for on-site temporary construction signs for subdivisions and nonresidential properties shall be permitted only when there is an application on file with the Planning Division for the development proposal. The type, location and number should be confirmed with the land use permit for the model home complex, in the case of residential development, or with the development plan application in the case of nonresidential development. A sign permit is not required for these signs provided that they meet the following standards:

a. *On-site Subdivision Construction Signs.*

1. Location. Signs shall be located within the boundaries of the subdivision or the subject lot, and shall not encroach into the public right-of-way. Signs shall be located so as not to interfere with the sight distance triangle (see Subdivision Ordinance definition) at road intersections and driveways.

2. Number. One (1) sign is permitted per subdivision entrance. For interior subdivisions without primary street frontage, Town-approved reader board signs may be installed within the public right-of-way at the nearest major intersection when there are more than two (2) interior subdivisions not located on a major street. These signs may have a double width thirty-six by forty-eight (36" x 48") inches sign component. (Note: All Town-approved reader board signs require a sign permit, building permit and encroachment permit approval if they are located in the public right-of-way and shall be constructed per Town standards.) See subsection 32-98.18 for reader board requirements.

3. Area. Maximum sign area shall be thirty-two (32) square feet.

4. Height. Maximum sign height shall be twelve (12') feet, measured from finished grade.

5. Additional Signs. Other temporary decorative signs, such as flags, which are designed to attract the public's attention, shall be subject to review and approval through a land use permit application for the subdivision's model home complex. As a general rule, no more than two (2) promotional flags per model home shall be permitted.

6. Duration. Signs may be erected and maintained for a maximum of eighteen (18) months, or until thirty (30) days after all homes have transferred ownership once, whichever occurs first. An extension of the time limit may be authorized by the Chief of Planning upon showing of good cause.

7. Permits. Signs require a building permit.

b. *On-Site Nonresidential Construction Signs.*

1. Location. Signs shall be located within the subject property boundaries of the construction site and shall not encroach into the public right-of-way. Signs shall be located so as not to interfere with the sign sight triangles at road intersections and driveways.

2. Number. One (1) sign shall be allowed per project.

3. Sign Copy. Sign copy shall be limited to information on the developer, architect, financial institution, future tenants and leasing information.

4. Area. Construction sites with a minimum street frontage of one hundred twenty-five (125') linear feet shall have a maximum sign area of thirty-two (32) square feet. Construction sites with a street frontage less than one hundred twenty-five (125') linear feet shall have a maximum construction sign area of twenty-four (24) square feet.

5. Height. Maximum sign height shall be twelve (12') feet, measured from finished grade.

6. Additional Signs. Other temporary decorative signs, such as flags, which are designed to attract the public's attention, shall be subject to review and approval through a temporary/promotional sign permit.

7. Duration. Signs may be erected for a maximum of one (1) year or until occupancy, whichever occurs first. An extension of the time limit may be authorized by the Chief of Planning upon showing of good cause.

8. Permits. Signs require a building permit.

(Ord. #91-30, §2; Ord, #95-06, §3)

32-98.18 Subdivision Reader Boards.

The subdivision reader board sign program was established to provide a unified off-site sign program for advertising the sale of residential lots in subdivisions. These signs are temporary and may be located within the public right-of-way upon securing the appropriate permits as required in this section. These signs shall have no illumination (either external or internal).

a. *Location.* The signs may be installed within the public right-of-way, generally situated 5'+/- behind the face of curb, unless otherwise regulated through the sign permit. All signs shall be located so that they do not interfere with sight distance for motorists, pedestrians and bicycle riders. Signs shall be located a minimum of sixty (60') feet from an intersection. (Note: If this structure causes interference with future landscape installation within the right-of-way, the structure shall be relocated at the applicant's expense to a location approved by the Town of Danville.)

b. *Sign Copy.* The sign copy for each individual sign component shall only advertise the name and directions to the subdivision.

c. *Area.* The size and design of the sign shall conform with Town-approved design standards. The overall area of a single width sign shall not exceed thirty-six (36) square feet. Each sign component shall be eighteen by forty-eight (18" x 48") inches.

d. *Height.* The maximum height of the sign shall not exceed nine feet ten (9'10") inches measured from finished grade.

e. *Insurance.* Proof of comprehensive general liability insurance of at least one million ($1,000,000.00) dollars is required. The Town, its officers, agents, and employees shall be named as additional insured. Proof of insurance is required prior to issuance of a building permit.

f. *Permits.* An administrative sign permit from the Planning Division, a building permit from the Town of Danville Building Department and an encroachment permit from the Engineering Division shall be secured prior to construction of the sign structure. Each eighteen by forty-eight (18" x 48") inch reader board component shall also secure administrative approval by the Planning Division prior to installation.

g. *Maintenance.* The applicant shall maintain the sign structure and the area surrounding the sign in good condition and free of debris and weeds.

h. *Duration.* The sign structures shall be removed at the time that the last unit of a subdivision has been sold or when the last subdivision reader board sign component has been removed from the structure. Removal of the entire structure shall occur no later than thirty (30) days after the last subdivision reader board component insert has been removed from the structure.

Individual subdivision reader board components shall be utilized for a period not to exceed eighteen (18) months from the date of installation or until thirty (30) days after the sale of the last unit in the subdivision, whichever occurs first. The time period shall start from the date of administrative approval for the individual reader board component, Extensions of these time limits may be approved by

the Chief of Planning.

i. *Surety Bond.* A security (cash, bond, certificate of deposit, or letter of credit) shall be posted in the amount of five hundred ($500.00) dollars as a guarantee for the removal of each sign structure prior to the issuance of a building permit.

(Ord. #91-30, §2; Ord. #95-06, §3)

32-98.19 Sign Illumination.

a. *Indirectly Illuminated Signs.*

1. Illumination. Lighting intensity shall be the minimum required to be legible.

2. Location. All light sources shall be directed away from view of the general public and appropriately screened.

b. *Internally Illuminated Signs.* The standards applicable to internally illuminated signs are contained in subsection 32-98.13 (Master Sign Program).

c. *Neon or Fiber Optic Signs.*

1. General. The design of the neon or fiber optic sign may depict the business name; symbolize the activities of the business; indicate product names, trademarks or services; and/or be an artistic expression (e.g., a graphic depiction of a product or service without written text).

2. Area. The area of any neon or fiber optic sign shall be calculated towards the allowable window sign area (see subsection 32-98.14f.) for the business.

3. Number. Only one (1) neon or fiber optic sign per street frontage per business may be utilized.

4. Location. Neon or fiber optic signs shall only be located on the interior of windows. No exterior neon or fiber optic signs are permitted.

5. Illumination. Lighting intensity shall be the minimum required to be legible.

6. Permit. All neon or fiber optic signs require review and approval by the Chief of Planning prior to installation.

(Ord. #91-30, §2; Ord. #95-06, §3)

32-98.20 Approval.

If the sign complies with the intent of this article, the Chief of Planning may approve the application, or approve it subject to conditions. The applicant must then apply to the Building Department for review and determination of compliance with the Building Code. The applicant is responsible for obtaining such building, electrical or other permits as are required and shall not install the sign until the appropriate permits are issued. The Chief of Planning or Design Review Board may refer an application to the Planning Commission for consideration and action. (Ord. #91-30, §2; Ord. #95-06, §3)

32-98.21 Denial.

The Chief of Planning or Design Review Board may deny a permit if the application submittal has not complied with this article. The Chief of Planning shall send written notice to the applicant within ten (10) days of the denial stating the reasons for denial. (Ord. #91-30, §2; Ord. #95-06, §3)

32-98.22 Appeal.

A person aggrieved or affected by an action of the Chief of Planning or the Design Review Board may appeal the action under Section 30-7 of the Danville Municipal Code, which incorporates by reference Sections 26-2.2402 through 26-2.2410 of the Contra Costa County Code. The appellant must file a written notice of appeal, with the appropriate appeal fee, and set forth specific grounds for the appeal. Said appeal must be filed with the Chief of Planning within ten (10) days of action on the application. In an appeal, the appellant has the burden of proof. (Ord. #91-30, §2; Ord. #95-06, §3)

32-98.23 Limitations.

A sign permit issued by the Town under this article expires if the work authorized by the permit is not started within ninety (90) days from the date of the permit, or if the building or work authorized by the permit is suspended or abandoned for a period of sixty (60) consecutive days after the beginning of work. If a sign permit is filed in conjunction with a Development Plan or other land use entitlement, the sign permit is valid until the Development Plan or land use entitlement expires. If the sign permit expired, the applicant must renew the sign permit before beginning work. The fee for the renewed permit shall be one-half (1/2) of the amount required for a permit, if no changes have been made in the original plans and specifications and if the suspension or abandonment has not exceeded one hundred eighty (180) days. (Ord. #91-30, §2; Ord. #95-06, §3)

32-98.24 Revocation.

The Chief of Planning may suspend or revoke a permit issued under this article whenever the permit is issued on the basis of a misstatement or omission of material fact or fraud or for any reason listed in Section 30-4.12 of the Danville Municipal Code. The procedures for revocation of a sign permit are those set forth in Sections 26-2.2024 through 26-2.2030 of the Contra Costa County Code, as adopted by reference by subsection 30-1.1 of the Danville Municipal Code. (Ord. #91-30, §2; Ord. #95-06, §3)

32-98.25 Records.

The Chief of Planning shall maintain a record of each sign permit issued. (Ord. #91-30, §2; Ord. #95-06, §3)

Division 3

ENFORCEMENT REGULATIONS

32-98.26 General.

These sign regulations shall be in effect as of the effective date of this article except that:

a. In case of a conflict between sign regulations contained in this article, the stricter regulation applies.

b. In the case of conflict between this article and other sign regulations in the Municipal Code, these regulations shall apply.

(Ord. #91-30, §2; Ord. #95-06, §3)

32-98.27 Violation Is an Infraction.

A person who violates this article is guilty of an infraction under Chapter 1, subsections 1-5.1 and 1-5.2 of the Danville Municipal Code. (Ord. #91-30, §2; Ord. #95-06, §3)

32-98.28 Violation—Nuisance.

A sign or sign structure placed or maintained contrary to this article is a public nuisance. (Ord. #91-30, §2; Ord. #95-06, §3)

32-98.29 Abatement.

A sign or sign structure placed or maintained contrary to this article after approval of this article may be abated as follows:

a. A sign placed which is illegal, prohibited or which imperils the safety of people or property, or an obsolete or abandoned sign is subject to removal by the owner and, upon the owner's failure to do so, by the Town.

b. A sign may be abated and the expense or abatement shall be a lien against the property and a personal obligation against the property owner. The abatement procedure is that set forth in Chapter 1, subsections 1-5.1 and 1-5.2 of the Danville Municipal Code.

c. Each person who places a sign which is subject to removal under paragraph a. or b. is jointly and severally liable for the cost of removal. The Town has a lien upon the sign for the cost of removal and may keep possession of the sign until the owner redeems it by paying to the Town the cost of removal. The Town may dispose of the sign sixty (60) days after removal by giving the owner notice that the owner may redeem the sign by paying the cost of removal and if he fails to do so, the Town will dispose of the sign as it sees fit without further liability to the owner for this action.

d. Any temporary or political sign erected or placed in violation of this section may be removed by the Code Enforcement Officer or any other employee of the Town so authorized by the Town Manager. Prior to removal of such signs, the Town shall attempt to contact the candidate, committee, entity or other person responsible for the posting of the sign. If the responsible person can be reached, they shall be given twenty-four (24) hours to remove the signs. If the signs are not removed within this time period or, if after reasonable efforts no responsible party can be reached, the signs shall be removed and stored at the Town's Service Center. If a sign is erected or placed less than twenty-four (24) hours prior to the event being advertised or promoted, the sign may be immediately removed.

Once signs are removed pursuant to this subsection, the responsible party shall be notified in writing of the removal of the signs, of their right to contest the fact that the sign was placed in violation of this section and of their right to retrieve the signs within fifteen (15) days. If the responsible party contests the removal of the signs, they shall be entitled to an administrative hearing before the Chief of Planning or designee, who shall have the authority to order the signs returned without charge.

If the Town retrieves the signs pursuant to this section, the responsible party shall be charged an amount equal to the expense incurred by the Town in removing the signs. If the signs are not retrieved within fifteen (15) days, the signs shall be destroyed or otherwise disposed of by the Town.

(Ord. #91-30, §2; Ord. #95-06, §3; Ord. #96-07, §2)

32-98.30 Inspection.

The Chief of Planning may make such inspections as may be necessary to ascertain whether a sign conforms to this article. (Ord. #91-30, §2; Ord. #95-06, §3)

32-98.31 Maintenance.

No person may maintain or permit to be maintained on a premises owned or controlled by him, a sign or sign structure which is unsafe, dilapidated or in disrepair. If such a sign exists, the Town shall give written notice of the fact to the property owner and the person responsible for the sign. If the sign is not repaired within the time specified in the notice, the Chief of Planning may revoke the sign permit under subsection 32-98.24 and remove the sign under subsection 32-98.29 of this article. (Ord. #91-30, §2; Ord. #95-06, §3)

32-98.32 Nonconforming Signs.

A sign lawfully placed before the effective date of this article which does not conform to this article is a nonconforming sign. Nonconforming signs established before and after adoption of this article shall be subject to the following regulations.

A nonconforming sign which is abandoned, altered, reconstructed in a manner inconsistent with this article or moved must comply with

this article or be subject to abatement under subsection 32-98.29.

a. *Inventory and Identification of Illegal or Abandoned Signs.* The Town shall commence an inventory of all existing signs within six (6) months from the date of the adoption of this article.

b. *Removal of Signs Without Compensation.* If any of the following actions result in nonconformance with this article, the Town may elect to require the removal without compensation of any sign which meets the following criteria after notice and hearing pursuant to Chapter 2.6 of Division 3 of the California Business and Professions Code is given:

1. Any sign erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use.

2. Any sign which was lawfully erected anywhere in the Town, but whose use has ceased, or the structure upon which the display has been abandoned by its owner, for a period of not less than ninety (90) days. Costs incurred in removing the abandoned sign may be charged to the legal owner.

3. Any sign that has been more than fifty percent (50%) destroyed, and the destruction is other than facial copy replacement, and cannot be repaired within thirty (30) days from the date of its destruction.

4. If an owner requests permission to remodel a building and remodels a sign (outside of a change in copy).

5. If an owner obtains a permit to expand or enlarge the building or land use upon which the sign is located, and the sign is affected by the construction, enlargement, or remodeling.

6. The cost of construction, enlargement, or remodeling of the sign exceeds fifty percent (50%) of the cost of reconstruction of the building.

7. Any sign whose owner seeks relocation inconsistent with this article and relocates the sign. The Town is not liable for relocation costs if the Town requires the relocation.

8. Any sign for which there has been an agreement between the sign owner and the Town, for its removal as of any given date.

9. Any sign which is temporary.

10. Any sign which is or may become a danger to the public or is unsafe.

11. Any sign which constitutes a traffic hazard not created by relocation of streets or highways or by acts of the Town, County, or State.

12. Upon approval of a conditional use permit, development plan or other similar entitlement where the gross square footage of the building is increased greater than fifty percent (50%), all non-conforming signs shall be modified and/or removed prior to issuance of a building permit for the entitlement.

c. *Removal Following Amortization or Payment of Just and Fair Compensation for Nonconforming Signs.*

1. The Town may require the removal of a nonconforming sign without compensation to the sign's owner, upon the expiration of a reasonable amortization period, per the requirements of subsection 32-98.6b. For purposes of this subsection, a reasonable amortization period is hereby deemed to be six (6) months from the date written notice requiring the removal of the nonconforming sign is given by the Town to the sign's owner, provided that such amortization period may be extended by the Town or up to an additional two (2) years, upon a demonstration of good cause by the owner of the sign.

2. As an alternative to the amortization procedure set forth above, the Town may elect to require the removal of a nonconforming sign at any time following payment by the Town of the fair market value of the sign. "Fair market value" for purposes of this subsection means, and shall be calculated by adding, the actual cost of removing the sign (including the cost of repair of physical damage to the real property or improvements to which the sign was affixed, directly caused by such removal) and the in-place depreciated value of such sign.

d. *General Provisions.* A nonconforming sign may not be:

1. Changed to another nonconforming sign;

2. Structurally altered so as to extend beyond its useful life;

3. Expanded; or,

4. Relocated.

e. *Exceptions.* Exceptions to the provisions of this subsection may be granted by the Town Council upon application of any sign owner who presents substantial evidence showing that the sign conforms to subsection 32-98.7, Exceptions of this article.

(Ord. #91-30, §2; Ord. #95-06, §3)

32-98.33 Remedies Not Exclusive.

The remedies in this article are not exclusive. The Town may rely on any remedy authorized by law. (Ord. #91-30, §2; Ord. #95-06, §3)

32-98.34 Severability.

The Town Council hereby declares that every section, paragraph, clause and phrase is severable. If any section, paragraph, sentence,

clause or phrase of this article is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases. (Ord. #91-30, §3; Ord. #95-06, §3)

32-99—32-101 RESERVED.

ARTICLE X

TRANSPORTATION IMPROVEMENT PROGRAM FEE DIVISION THREE REGIONAL TRANSPORTATION FEES

Division 1

NONRESIDENTIAL CONSTRUCTION *

* Editor's Note: Prior ordinances codified herein include portions of Ordinance Nos. 62-85 and 126.

32-102 TRANSPORTATION IMPROVEMENT PROGRAM FEE FOR NON-RESIDENTIAL CONSTRUCTION.

32-102.1 Intent and Purpose.

The Town Council declares that:

a. Improvements to the circulation system are needed to promote the health, safety and general welfare of the citizens of Danville. (The need for improvements is documented in the "County Public Works Department Road Deficiency Study, 1968," the "Transportation and Parking Analysis, October 1984" prepared by JHK and Associates, the "Crow Canyon Corridor Transportation Study" prepared by TJKM in 1986, the "Traffic Signal Prioritization" study prepared by Patterson Associates in 1992, the Danville Capital Improvement Program, and the Danville General Plan.)

b. New nonresidential development within the Town will create an additional burden on the existing circulation systems.

c. The General Plan includes goals and objectives relating to minimizing congestion and maximizing safety in the circulation system. Modifications within the Town are needed to mitigate existing and potential future circulation impacts.

d. All development for the erection, construction or alteration of nonresidential buildings within the Town of Danville must be consistent with the General Plan. In addition, the approval of such development must assure that the General Plan and implementation of the goals and objectives relating to circulation and parking are, or will be, implemented.

e. In order to implement the General Plan, and promote the health, safety and general welfare it is necessary (among other implementation methods) that new development pay a fee in lieu of the installation of the improvements necessary for implementation of the Circulation Element of the Genera] Plan, including new streets, traffic signals, traffic signal interconnects and parking facilities.

f. Fees collected will be used throughout the Town based upon a priority ranking determined by the Town Council.

g. This section is adopted under the police power of the Town, Article XI, Section 7 of the California Constitution, and under the appropriate provisions of the Planning and Zoning Law of the State of California, Government Code §65000 et seq.

(Ord. #94-03, §1)

32-102.2 Fee Requirement.

A person who applies for a permit for the erection, construction or alteration of a nonresidential building shall pay to the Town a transportation improvement program fee for circulation and parking improvements in an amount specified in Chapter XXX, subsection 30-1.2c. of the Danville Municipal Code. (Ord. #94-03, §1)

32-102.3 Time of Payment.

The transportation improvement program fee shall be paid to the Town of Danville before issuance of a building permit. (Ord. #94-03, §1)

32-102.4 Credit.

The Town Council may approve full or partial credit against the transportation improvement program fee for a person:

a. Who dedicates land or makes substantial off-site, traffic or parking-related improvements in the Town in connection with a current development project. To qualify for credit under this subsection, the dedication or improvement must exceed that required for similar development projects;

b. Who dedicates land or makes traffic or parking improvements which contribute in a substantial way to the Town's circulation system.

(Ord. #94-03, §1)

32-102.5 Exemptions.

a. The fee imposed by this section does not apply to a permit for the erection, construction or alteration of a building for the following public and quasi-public uses:

1. Day care center;

2. Hospital, charitable or philanthropic institution or convalescent home;

3. Church, religious institution, and parochial or private school including a nursery school;

4. Community building, club or activity of a public or quasi-public character;

5. Publicly owned buildings and structures.

b. The Town Manager may grant an exemption to the transportation improvement program fee for a person doing interior or exterior remodeling, rehabilitation or renovations which do not create a change in use or building size. In this subsection, "change in use" means a change to a more intense use involving greater parking and traffic impacts than the existing use.

(Ord. #94-03, §1)

32-102.6 Appeal.

A decision by the Town Manager regarding a transportation improvement program fee imposed under this section may be appealed in accordance with the appeal provisions of Chapter 26-2 of the Ordinance Code of Contra Costa County, adopted by the Town by reference. (Ord. #94-03, §1)

Division 2

RESIDENTIAL CONSTRUCTION

32-103 RESIDENTIAL TRANSPORTATION IMPROVEMENT PROGRAM FEE.

32-103.1 Intent and Purpose. The Town Council declares that:

a. Improvements to the circulation system are needed to promote the health, safety and general welfare of the citizens of Danville. (The need for improvements is documented in the "County Public Works Department Road Deficiency Study, 1968," the "Transportation and Parking Analysis, October 1984" prepared by JHK and Associates, the "Crow Canyon Corridor Transportation Study" prepared by TJKM in 1986, the "Traffic Signal Prioritization" study prepared by Patterson Associates in 1992, the Danville Capital Improvement Program, and the Danville General Plan.)

b. New residential development within the entire Town will create an additional burden on the existing circulation systems.

c. The General Plan includes goals and objectives relating to minimizing congestion and maximizing safety in the circulation system. Modifications are needed to mitigate existing and potential future circulation impacts.

d. In order to implement the General Plan, and promote the health, safety and general welfare it is necessary (among other implementation methods) that new development pay a fee to compensate for the additional burden it places on existing circulation systems.

e. Fees collected will be used throughout the Town based upon a priority ranking determined by the Town Council.

f. This section is adopted under the police power of the City, Article XI, Section 7 of the California Constitution, and under the appropriate provisions of the Planning and Zoning Law of the State of California, Government Code Sections 65000 et seq.

Ord. #95, §8-4301; Ord. #94-03, §1)

32-103.2 Fee Requirement.

A person who applies for a permit for the erection or construction of a new residential unit shall pay to the Town a residential transportation improvement program fee for circulation improvements in an amount specified in Chapter XXX, subsection 32-12c. of the Danville Municipal Code. (Ord. #95, §8-4302; Ord. #94-03, §1)

32-103.3 Time of Payment.

The transportation improvement program fee shall be paid to the Town of Danville before issuance of a building permit. (Ord. #95, §8-4303; Ord. #94-03, §1)

32-103.4 Credit.

The Town Council may approve, or designate the Town Manager to approve, full or partial credit against the residential transportation improvement program fee for a person who:

a. Has made substantial off-site, traffic or parking-related improvements in connection with a development project approved within the three (3) years before the effective date of this section; or

b. Makes substantial off-site traffic or parking-related improvements in connection with the current development project. To qualify for credit under this paragraph, the dedication or improvement must exceed that required for similar development projects.

(Ord. #95, §8-4304; Ord. #94-03, §1)

32-103.5 Appeal.

A decision by the Town Manager regarding a residential transportation improvement program fee imposed under this section may be appealed in accordance with the appeal provisions of Chapter 26-2 of the Ordinance Code of Contra Costa County, adopted by the Town by reference. (Ord. #95, §8-4305; Ord, #94-03, §1)

32-104 TRI-VALLEY TRANSPORTATION DEVELOPMENT FEES.

32-104.1 Purpose and Use of Fees.

The purpose of the fees described in this section is to generate funds to finance improvements to regional transportation projects which are designed to help mitigate the regional impacts of forecasted development within the Tri-Valley Development Area. The fees will be used to finance the road improvements listed in the Joint Exercise of Powers Agreement Establishing the Tri-Valley Transportation Council for Planning and Facilitating the Implementation of Transportation Improvement Projects in the Tri- Valley Transportation Area (JEPA). As discussed in more detail in the JEPA, there is a reasonable relationship between the fees and the types of development projects that are subject to the fees in that the development projects will generate additional traffic on regional transportation facilities in the Tri-Valley area, thus creating a need to expand or improve existing facilities to mitigate adverse traffic and infrastructure impacts that would otherwise result from such development projects.

(Ord. #2009-07, § 2; Ord. #2015-02, § 1)

32-104.2 Fee Area.

The fees authorized by this section shall apply to all new development throughout the Town.

(Ord. #2009-07, § 2)

32-104.3 Fees Adopted.

The amount of the fee shall be as set forth by Resolution of the Town Council, and as established by the TVTC JEPA.

(Ord. #2009-07, § 2; Ord. #2015-02, § 2)

32-104.4 Payment of Fees.

a. Project developers shall be required to pay the fees prior to issuance of building permits for the project, or no later than occupancy, and to the extent permitted by law; and

b. The fees shall be levied on all development projects not exempt from payment of the fee; and

c. The fees shall apply on all significant changes to existing development agreements adopted after the execution of this Agreement. The fee shall be applied to all components of a project that are subject to an amended or renewed development agreement. As used herein, significant means any of the following: (a) change in land use type (e.g., office to retail); (b) intensification of land use types (e.g., increase in square footage of approved office); (c) extension of term of development agreements; and (d) reduction or removal of project mitigation requirements or conditions of approval.

(Ord. #2009-07, § 2; Ord. 2015-02, § 3)

32-104.5 Annual Fee Adjustment Process.

The fees set forth by Resolution of the Town Council pursuant to Section 32-104.3 of the Danville Municipal Code shall be adjusted annually on March 1 to account for inflation using the Engineering News Record Construction Cost Index for the San Francisco Bay Area for the period ending December 31 of the preceding calendar year. Such adjustment shall not require further notice or public hearing.

(Ord. #2009-07, § 2; Ord. 2015-02, § 4)

ARTICLE XI

RESERVED

32.105 RESERVED.

ARTICLE XII *

ADULT ENTERTAINMENT BUSINESSES

* Editor's Note: This article was adopted by Ordinance No. 15 §1.

32-106 GENERAL REGULATION OF ADULT BUSINESSES.

32-106.1 Intent and Purpose.

Adult entertainment businesses, because of their nature, are recognized as having objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon the adjacent areas. Regulation of the location of these businesses is necessary to insure that their adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods. The primary purpose of this chapter is to prevent the concentration or clustering of these businesses in any one (1) area.

32-106.2 Definitions.

a. *Generally.* Unless otherwise specifically provided, or required by the context, the following terms have the meanings set forth in this section for the purpose of this Article.

Adult Entertainment Businesses shall be defined as follows:

1. Adult Bookstore. An "adult bookstore" is an establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such materials.

2. Adult Motion Picture Theater. An "adult motion picture theater" is an enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

3. Adult Mini Motion Picture Theater. An "adult mini motion picture theater" is an enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

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

5. Adult Motion Picture Arcade. An "adult motion picture arcade" is any place to which public is permitted or invited whereto coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

6. Cabaret. "Cabaret" is a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

7. Massage Parlor. "Massage parlor" is any establishment licensed as a massage parlor pursuant to Chapter 518-2 where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs.

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

9. Sexual Encounter Center. "Sexual encounter center" is any business, agency or person who, for any form of consideration or gratuity, provides a place where three (3) or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in specified sexual activities or exposing specified anatomical areas.

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

Specified Sexual Activities shall meanand be defined as follows:

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

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

3. Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or

4. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or

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

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

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

Specified Anatomical Areas shall be defined as follows:

1. Less than completely and opaquely covered (a) human genitals, pubic region; (b) buttock; and (c) female breast below a point immediately above the top of the areola; or

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

32-106.3 Location.

a. *Restrictions.* In land use zoning districts where the adult entertainment businesses regulated by this section would otherwise be permitted uses, it shall be unlawful to establish any such adult entertainment business if the location is:

1. Within five hundred (500') feet of any area zoned for residential use; or

2. Within one thousand (1,000') feet of any other "adult entertainment" business; or

3. Within one thousand (1,000') feet of any public or private school, park, playground, public building, church, any noncommercial establishment operated by a bona fide religious organization, or any establishment likely to be used by minors.

b. *Establishment.* For the purposes of this section, the establishment of any adult entertainment business includes the opening of such a business as a new business, the relocation of such business, or the conversion of an existing business location to any adult entertainment business use.

32-106.4 Variance.

a. *Granting.* Land use permits to modify the location provisions contained in subsection 32-106.3 may be granted in accordance with Section 2-8 and Section 32-3. To the extent applicable, the planning agency, before granting any permit, shall make the finding required by Section 2-8.

32-107—32-108 RESERVED.

ARTICLE XIII

AGRICULTURAL LAND CONSERVATION

32-109 AGRICULTURAL PRESERVES.

32-109.1 Establishment.

a. *Establishment by Town Council.* The Town Council may by resolution designate suitable areas of the Town as agricultural preserves pursuant to the California Land Conservation Act (Government Code Section 51200, ff, as amended) to be devoted to agricultural and compatible uses.

32-109.2 Standards.

a. *Compliance Required*. Agricultural preserves shall comply with the following uniform standards as set forth in paragraphs b. through g. of this subsection.

b. *Minimum Acreage*. No agricultural preserve shall be established having less than one hundred (100) contiguous acres.

c. *Minimum Parcel*. No parcel of land of less than twenty (20) acres shall be included in an agricultural preserve, but the Town may, on its own initiative, offer to include a parcel of any size and offer a contract to its owner when it deems necessary to provide for the preserve's continuity and integrity.

d. *Parcel Defined*. "Parcel" as used in this title means a contiguous area of land under common fee ownership.

e. *Land Subject to Agreement.* All land in a preserve must also be subject to a land conservation contract or agreement.

f. *Land Within One Mile of City*. Land within one (1) mile of any City may be included in an agricultural preserve and placed under contract, but not if the City files with the local agency formation commission a resolution of protest which the commission upholds in the manner provided by Government Code Section 51243.5.

g. *Land Use Restriction*. Agricultural preserves shall include only land primarily used for commercial agricultural production.

32-110—32-111 RESERVED.

32-112 LAND CONSERVATION CONTRACTS.

32-112.1 Establishment.

a. Establishment Generally. Upon authorization by Council resolution, its chairman may execute for the Town, laud conservation contracts with the owners of land located within agricultural preserves, pursuant to the California Land Conservation Act.

32-113—32-114 RESERVED.

ARTICLE XIV

LAND DEDICATION FOR SCHOOL PURPOSES

32-115 SCHOOL FACILITY DEDICATIONS.

32-115.1 General Provisions.

a. *Title and Purpose.* This section shall be known as the "School Facilities Dedication Ordinance of the Town of Danville." The purpose of this section is to provide a method for financing interim school facilities necessitated by new residential developments causing conditions of overcrowding.

b. *Authority and Conflict. T*his section is enacted pursuant to Chapter 4.7 (Government Code §§65970 ff) and constitutes the ordinance referred to in Sections 65972 and 65974 of Chapter 4.7. In the case of any conflict between the provisions of this division and

those of Chapter 4.7, the latter shall prevail.

c. *General Plan.* The Town's General Plan provides for the location of public schools. Interim school facilities to be constructed from fees or land required to be dedicated, or both, shall be consistent with the General Plan.

d. *Regulations.* The Town Council from time to time, by resolution, may issue regulations to establish administration, procedures, interpretation and policy direction for this division.

32-115.2 Definitions.

a. *Generally.* Unless otherwise specifically provided, or required by the context, the following terms have the meanings set forth in this subsection for the purposes of this section.

b. *Chapter 4.7* means Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7 of the Government Code as added by Chapter 955 of the Statutes of 1977 and any subsequent amendments thereto.

c. *Conditions of overcrowding* means that the total enrollment of a school, including enrollment from proposed development, exceeds the capacity of such school as determined by the governing body of the district.

d. *Dwelling unit* means a building or a portion thereof, or a mobile home, designed for residential occupancy by one (1) person or a group of two (2) or more persons living together as a domestic unit.

e. *Reasonable methods for mitigating conditions of overcrowding* means and include, but is not limited to, agreements between a subdivider and the affected school district whereby temporary-use buildings will be leased to the school district or temporary-use buildings owned by the school district will be used.

f. *Other methods for mitigating conditions of overcrowding* means and include, but is not limited to the following:

1. The use of available annual revenue limit and bond revenues;

2. The use of funds which could be available from the sale of surplus school district real property and funds available from any other sources.

g. *Residential development* means a project containing residential dwellings, including mobile homes, of one (1) or more units or a subdivision of land for the purpose of constructing one (1) or more residential dwelling units. "Residential development" includes, but is not limited to, a preliminary or final development plan, a subdivision tentative or final map, a parcel map, conditional use permit, a building permit, and any other discretionary permit for new residential use

32-115.3 Overcrowded Attendance Areas.

a. *Findings and Notice.* Pursuant to Chapter 4.7, the governing body of a school district may make findings supported by clear and convincing evidence that:

1. Conditions of overcrowding exist in one (1) or more attendance areas within the district which will impair the normal functioning of educational programs including the reason for such conditions existing;

2. All reasonable methods of mitigating conditions of overcrowding have been evaluated; and

3. No feasible method for reducing such conditions exists. Upon making these findings the school district must provide the Town with notice of its findings.

b. *Notice of Findings Requirements.* Any notice of findings sent by a school district to the Town shall specify:

1. The findings listed in paragraph a. of this subsection;

2. The mitigation measures and methods, including those listed in paragraphs e. and f. of subsection 32-115.2, considered by the school district and any determination made concerning them by the district;

3. A description of the geographic boundaries of the overcrowded attendance area or areas;

4. Estimated annual school district costs to provide interim school facilities in the overcrowded attendance area or areas; and

5. Such other information as may be required by Town Council regulation.

c. *Concurrence.* After the receipt of any notice of findings complying with the requirement of paragraph b. of this subsection, the Council shall determine whether it concurs in such school district findings. The Council shall schedule and hold a public hearing on the matter of its proposed concurrence prior to making its determination by resolution.

d. *Findings for Development Approval.* Within an attendance area where the Council has concurred in a school district's notice of findings that conditions of overcrowding exist, the Planning Agency shall not approve an ordinance rezoning property to a residential use, grant a discretionary permit for residential use, or approve a tentative subdivision map for residential purposes, within such area, unless the Planning Agency makes one (1) of the following findings:

1. That this division is an ordinance adopted pursuant to Section 65974 of Chapter 4.7;

2. That there are specific overriding fiscal, economic, social, or environmental factors which in the judgment of the Planning Agency would benefit the County, thereby justifying the approval of a residential development otherwise subject to the interim school facilities dedication provisions of this division.

e. *School District Schedule.* Following the concurrence and decision by the Town to require the dedication of land or the payment of fees, or both, for an attendance area, the governing body of the involved school district shall submit a schedule specifying how it will use the land or fees, or both, to solve the conditions of overcrowding. The schedule shall include the school sites to be used, the classroom facilities to be made available, and the times when such facilities will be available. In the event the governing body of the school district cannot meet the schedule, it shall submit modifications to the Town Council and the reasons for the modification.

32-115.4 Requirements.

a. *Residential Development. I*n an attendance area where the board has concurred as provided in subsection 32-115.3, the owner of a proposed residential development as a condition of approval or the obtaining of a building permit shall dedicate land, pay fees in lieu thereof, or do a combination of both, for classroom and related facilities for elementary and/or high schools including all mandated educational programs.

b. *Subdivision Fee Limit. O*nly the payment of fees is required for the approval of a subdivision map containing fifty (50) parcels or less. (Ord. #78-10).

c. *Exemptions.* Residential developments shall be exempt from the requirements of this division when they consist only of the following:

1. Any modification or remodel of an existing legally established dwelling unit that does not create an additional dwelling unit;

2. A condominium project converting an existing apartment building into a condominium where no new dwelling units are added;

3. Any rebuilding of a legally established dwelling unit destroyed or damaged by fire, explosion, act of God, or other accident or catastrophe;

4. Any rebuilding of an historical building recognized, acknowledged and designated as such by the Planning Agency.

d. *Prior Agreements.* Any agreement existing prior to March 3, 1978, between a school district and a developer pertaining to the dedication of land and/or payment of fees for school facilities shall be recognized by the Planning Agency and shall be considered by it as satisfying this division's requirements.

32-115.5 Standards for Land and Fees.

a. *General Standard.* The location and amount of land to be dedicated or the amount of fees to be paid, or both, shall bear a reasonable relationship and will be limited to the needs of the community for interim elementary and/or high school facilities, including all mandated educational programs, and shall be reasonably related and limited to the need for schools caused by the development.

b. *Amount of Land. T*he total land area required by this division to be dedicated shall be at least equal in monetary value to the fees which would otherwise be required by subsection 32-115.3. The Planning Agency shall determine and establish the monetary value of the land area for the purposes of this division.

c. *Amount of Fee.*

1. Resolution. When fees are required by this division to be paid in lieu of land dedication or as a combination of both, such fees shall be, and be paid, as set by Council resolution adopted after recommendation by the Director of Planning.

2. Bedroom and Dwelling. The resolution shall fix a per bedroom fee and a total maximum dwelling unit fee. Any room designed for sleeping which has a closet is a bedroom for the purposes of this division.

3. Mobile Home Parks. The resolution shall fix a fee for each dwelling unit space or lot in a mobile home park.

4. Costs. Among the factors to be considered when establishing fees by resolution are: any school district notice of findings, cost estimates, the costs of local leasing of portable facilities, construction of interim school facilities, and air conditioning.

32-115.6 Procedures.

a. *Decision Factors.* At the time of initial residential development or building permit approval, the Planning Agency shall determine whether to require a dedication of land within the development, payment of a fee in lieu thereof, or a combination of both. In making this determination, the Agency shall consider the following factors:

1. Whether lands offered for dedication will be consistent with the General Plan;

2. The topography, soils, soil stability, drainage, access, location and general utility of land in the development available for dedication;

3. Whether the location and amount of lands proposed to be dedicated or the amount of fees to be paid, or both, will bear a reasonable relationship and will be limited to the needs of the community for interim elementary and/or high school facilities including all mandated educational programs and will be reasonably related and limited to the need for schools caused by the development;

4. Any recommendations made by affected school districts concerning the location and amount of lands to be dedicated;

5. If only a subdivision is proposed, whether it will contain fifty (50) parcels or less.

b. *Land Dedication.* When land is to be dedicated, it shall be offered for dedication in substantially the same manner as prescribed in the subdivision ordinance for streets and public easements.

c. *Fee Payment.* If the payment of a fee is required, such payment shall be made at the time the building permit is approved and

issued.

d. *Trust—Land and Fees.* Land and fees shall be held in trust by the Town until transferred to the school district operating schools in the attendance area from which the land or fees were collected.

e. *Refunds.*

1. If a final subdivision map, a parcel map, conditional use permit, development plan, or building permit is vacated or voided and if the Town still retains the land and/or fees collected for it, and if the applicant so requests, the Town Council shall order return to him of such land and/or fees.

2. If a final subdivision map, a parcel map, conditional use permit, development plan, or building permit is canceled or voided, and if the affected school district still retains the land and/or fees transferred to it by the Town, and if the applicant so requests, the school district shall return to him such land and/or fees.

32-116 RESERVED.

ARTICLE XV

FLOOD DAMAGE PREVENTION

32-117 FLOOD DAMAGE PREVENTION REGULATIONS.

Division 1

GENERAL PROVISIONS

32-117.1 Findings of Fact.

a. The flood hazard areas of the Town are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

b. These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards that increase flood heights and velocities also contribute to the flood loss.

(Ord. #133, §8-4801; Ord. #2002-02, §2)

32-117.2 Statement of Purpose.

It is the purpose of this section to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specified areas by provisions designed to:

a. Protect human life and health;

b. Minimize expenditure of public money for costly flood control projects;

c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

d. Minimize prolonged business interruptions;

e. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

f. Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

g. Insure that potential buyers are notified that property is in an area of special flood hazard; and

h. Insure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. #133, §8-4802; Ord. #2002-02, §2)

32-117.3 Methods of Reducing Flood Losses.

In order to accomplish its purposes, this section includes methods and provisions for:

a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers which help accommodate or channel flood waters;

d. Controlling filling, grading, dredging, and other development which may increase flood damage; and

e. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. #133, §8-4804; Ord. #2002-02, §2)

32-117.4 Definitions.

As used in this section, unless context otherwise requires:

a. *Accessory use* means a use that is incidental and subordinate to the principal use of the parcel of land on which it is located.

b. *Alluvial fan* means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

c. *Apex* means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.

d. *Appeal* means a request for a review of the Development Services Director's interpretation of any provision of this ordinance.

e. *Area of shallow flooding* means a designated AO or AH Zone on the Flood Insurance Rate map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

f. *Area of special flood hazard* (See "Special flood hazard area").

g. *Area of special flood-related erosion hazard* is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Insurance Rate Map (FIRM).

h. *Area of special mudslide (i.e., mudflow) hazard* is the area subject to severe mudslides (i.e., mudflows). The area is designated as Zone M on the Flood Insurance Rate map (FIRM).

i. *Base flood* means a flood that has a one (1%) percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this section.

j. *Basement* means any area of the building having its floor subgrade, i.e., below ground level, on all sides.

k. *Breakaway walls* are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which are not part of the structural support of the building and which are designed to break away under abnormally high tides or wave action without causing damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

l. *Building* (See "structure").

m. *Coastal high hazard area* means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V.

n. *Development* means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

o. *Encroachment* means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain that may impede or alter the flow capacity of a floodplain.

p. *Existing manufactured home park* or *subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

q. *Expansion to an existing manufactured home park* or *subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

r. *Flood, flooding, or flood water* means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and

2. The condition resulting from flood-related erosion.

s. *Flood Boundary and Floodway Map (FBFM)* means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

t. *Flood Hazard Boundary Map* means the official map of which the Federal Emergency Management Agency or Federal Insurance Administrative has delineated the areas of flood hazards.

u. *Flood Insurance Rate Map (FIRM)* means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

v. *Flood Insurance Study* means the official report provided by the Federal Insurance Administration that included flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

w. *Flood-related erosion* means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical level or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusually and unforeseeable event which results in flooding.

x. *Flood-related erosion area* or *flood-related erosion prone area* means a land area adjoining the shore of a lake or other body of water which, due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

y. *Flood-related erosion area management* means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.

z. *Floodplain* or *flood-prone area* means any land area susceptible to being inundated by water from any source (See "flooding").

aa. *Floodplain Administrator* is the individual appointed to administer and enforce the floodplain management regulations.

bb. *Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

cc. *Floodplain management regulations* means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof that provide standards for preventing and reducing flood loss and damage.

dd. *Floodproofing* means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents (Refer to FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93 for guidelines on dry and wet floodproofing).

ee. *Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. Also referred to as "Regulatory Floodway."

ff. *Floodway fringe* is that area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.

gg. *Fraud and victimization* as related to Division 5, Variances, of this section, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Town of Danville will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty (50) to one hundred (100) years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, the future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

hh. *Functionally dependent use* means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

ii. *Governing body* is the local governing unit, i.e., county or municipality, which is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

jj. *Hardship* as related to Division 5, Variances of this section, means the exceptional hardship that would result from a failure to grant the requested variance. The Town of Danville requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

kk. *Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

ll. *Historic structure* means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily

determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

mm. *Levee* means a man made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

nn. *Levee system* means a flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

oo. *Lowest floor* means the lowest floor enclosed area, including basement (See "basement" definition).

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided it conforms to applicable non elevation design requirements, including, but not limited to:

(a) The wet floodproofing standard in section 32-117.34c;

(b) The anchoring standards in section 32-117.32;

(c) The construction materials and methods standards in section 32-117.33; and

(d) The standards for utilities in section 32-117.36.

2. For residential structures, all subgrade-enclosed areas are prohibited as they are considered to be basements (See "basement" definition). This prohibition includes below grade garages and storage areas.

pp. *Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

qq. *Manufactured home park* or *subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

rr. *Market Value* shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation that has accrued since the structure was constructed. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the Development Services Director, but shall not include economic or other forms of external obsolescence. Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

ss. *Mean sea level* means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

tt. *Mudslide* describes a condition where there is a river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain.

uu. *Mudslide(i.e., mudflow) prone area* means an area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

vv. *New construction*, for floodplain management purposes, means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by this community, and includes any subsequent improvements to such structures.

ww. *New manufactured home park* or *subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by this community.

xx. *Obstruction* includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, weir, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

yy. *One hundred year flood* or *100-year flood* (See "baseflood").

zz. *Primary frontal dune* means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

aaa. *Public safety and nuisance* as related to Division 5, Flood Hazard Variance Procedure, of this section means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

bbb. *Recreational vehicle* means a vehicle which is:

1. Built on a single chassis;

2. Four hundred (400) square feet or less when measured at the largest horizontal projection;

3. Designed to be self-propelled or permanently towable by a light-duty truck;

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

ccc. *Regulatory floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

ddd. *Remedy a violation* means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

eee. *Riverine* means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

fff. *Sand dunes* means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

ggg. *Sheet flow area* (See "area of shallow flooding").

hhh. *Special flood hazard area(SFHA)* means an area in the floodplain subject to a one (1%) percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

iii. *Start of construction* includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

jjj. *Structure* means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

kkk. *Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50%) percent of the market value of the structure before the damage occurred.

lll. *Substantial improvement* means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structures before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

mmm. *V zone* (See "coastal high hazard area").

nnn. *Variance* means a grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

ooo. *Violation* means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

ppp. *Water surface elevation* means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

qqq. *Watercourse* means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur. (Ord. #133, §8-4804; Ord. #2002-02, §2)

32.117.5—32.117.10 Reserved.

Division 2

APPLICATIONS

32-117.11 Lands to Which This Chapter Applies.

This chapter applies to all areas of special flood hazards within the jurisdiction of the Town of Danville, California. (Ord. #133, §8-4811; Ord. #2002-02, §2)

32-117.12 Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Agency (FEMA) in the Flood Insurance Study (FIS) dated September 7, 2001 and accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), dated September 7, 2000, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ordinance. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the Town of Danville by the Development Services Director. The study, FIRMs and FBFMs are on file at 510 La Gonda Way, Danville, California. (Ord. #133, §8-4812; Ord. #2002-02, §2)

32-117.13 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this section and other applicable regulations. Violations of the provisions of this section by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the Town Council from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. #133, §8-4813; Ord. #2002-02, §2)

32-117.14 Abrogation and Greater Restrictions.

This section is not intended to repeal, abrogate, or impair existing easements, covenants, or deed restrictions. However, where this section and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. #133, §8-4814; Ord. #2002-02, §2)

32.117.15 Interpretation.

In the interpretation and application of this section, all provisions shall be:

a. Considered as minimum requirements;

b. Liberally construed in favor of the governing body; and

c. Deemed neither to limit nor repeal any other powers granted under State statutes. (Ord, #133, §8-4815; Ord. #2002-02, §2)

32-117.16 Warning and Disclaimer of Liability.

The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man made or natural causes. This section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the Town of Danville, any officer or employee thereof, the State of California, the Federal Insurance Administration, or the Federal Emergency Management Agency, for flood damage that results from reliance on this section or an administrative decision made under it. (Ord. #133, §8-4816; Ord. #2002-02, §2)

32-117.17 Severability.

This section and the various parts thereof are hereby declared to be severable. Should any subsection of this section be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the section as a whole, or any portion thereof other than the subsection so declared to be unconstitutional or invalid. (Ord. #133, §8-4817; Ord. #2002-02, §2)

32-117.18—32-117.20 Reserved.

Division 3

ADMINISTRATION

32-117.21 Establishment of Development Permit.

A Development Permit must be obtained before construction or development begins within any area of special flood hazard established

in subsection 32-117.12. Application for a Development Permit shall be made on forms furnished by the Development Services Director and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation for the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

a. Site plan, including, but not limited to:

1. For all proposed structures, spot ground elevations at building corners and twenty (20) foot or smaller intervals along the foundation footprint, or one (1) foot contour elevations throughout the building site; and

2. Proposed locations of water supply, sanitary sewer, and utilities; and

3. If available, the base flood elevation from the Flood Insurance Study and/or Flood Insurance Rate Map; and

4. If applicable, the location of the regulatory floodway;

b. Foundation design detail, including, but not limited to:

1. Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures; and

2. For a crawl space foundation, location and total net area of foundation openings as required in 32-117.34.c of this section and FEMA Technical Bulletins 1-93 and 7-93; and

3. For foundations placed on fill, the location and height of fill, and compaction requirements (compacted to ninety five (95%) percent using the Standard Proctor Test method);

c. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in 32-117.34.b of this section and FEMA Technical Bulletin TB 3-93; and

d. All appropriate certifications listed in 32-117.23.e of this section; and

e. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 133, §8-4821; Ord. #2002-02, §2)

32-117.22 Designation of Development Services Director.

The Development Services Director is appointed to administer and implement this section by granting or denying development permit applications in accordance with its provisions. (Ord. #133, §8-4822; Ord. #2002-02, §2)

32-117.23 Duties and Responsibilities of the Development Services Director.

The duties and responsibilities of the Development Services Director include, but are not limited to, the following:

a. *Development Permit Review.* The Development Services Director shall review all development permits to determine that:

1. The permit requirements of this section are satisfied;

2. All other required State and Federal permits have been obtained;

3. The site is reasonably safe from flooding; and

4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this section, "adversely affect" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one (1) foot at any point.

b. *Use of Other Base Flood Data.* When base flood elevation data have not been provided in accordance with subsection 32-117.12, Basis for Establishing the Areas of Special Flood Hazard, the Development Services Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source in order to administer Division 4 of this section. Any such information shall be submitted to the Town Council of the Town of Danville for adoption; or

c. If no base flood elevation data is available a base flood elevation shall be obtained using one of two methods from the FEMA publication "Managing Floodplain Development in Approximate Zone A Areas—A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995 in order to administer Division 4:

1. Simplified method:

(a) One hundred (100) year or base flood discharge shall be obtained using the appropriate regression equation found in a U.S. Geological Survey publication, or the discharge drainage area method; and

(b) Base flood elevation shall be obtained using the Quick-2 computer program developed by FEMA; or

2. Detailed method:

(a) One hundred (100) year or base flood discharge shall be obtained using the U.S. Army Corp of Engineers' HEC-HMS computer program; and

(b) Base flood elevation shall be obtained using the U.S. Army Corps of Engineers' HEC-RAS computer program.

d. *Notification of Other Agencies.* In alteration or relocation of a watercourse:

1. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;

2. Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency; and

3. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

e. *Information to be Obtained and Maintained.* The Development Services Director shall obtain and maintain for public inspection and make available as needed the following:

1. The certification required in section 32-117.34.a and Section 32-117.38 (flood elevations);

2. The floodproofing certification required in section 32-117.34.b (elevation or floodproofing of nonresidential structures);

3. The certification required in section 32-117.34.c.1 or 32-117.34.c.2 (wet floodproofing standard);

4. The certification required in section 32-117.37.b (subdivision standards);

5. The certification required in section 32-117.39.a (floodway encroachments).

f. *Alteration of Watercourses.* Whenever a watercourse is to be altered or relocated, the Development Services Director shall:

1. Notify adjacent communities and the California Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration; and

2. Require that the flood carrying capacity of the altered or relocated portion of said watercourse be maintained.

g. *Interpretation of FIRM Boundaries.* The Development Services Director shall make interpretations where needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions, grade and base flood elevations shall be used to determine the boundaries or the special flood hazard area). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Division 5 of this section.

h. *Remedy Violations.* The Development Services Director shall take action to remedy violations of this section as specified in subsection 32-117.13.

i. *Appeals.* The Town of Danville shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Development Services Director in the enforcement or administration of this section. (Ord. #133, §8-4823; Ord. #2002-02, §2)

32-117.24—32-117.30 Reserved.

Division 4

PROVISIONS FOR FLOOD HAZARD REDUCTION

32-117.31 Applications.

The standards set forth in this division are required in all areas of special flood hazards. (Ord. #133, §8-4831; Ord. #2002-02, §2)

32-117.32 Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

b. All manufactured homes shall meet the anchoring standards of subsection 32-117.38.b. (Ord. #133, §8-4832; Ord. #2002-02, §2)

32-117.33 Construction Materials and Methods.

All new construction and substantial improvements shall be constructed:

a. With flood resistant materials as specified in FEMA Technical Bulletin TB 2-93, and utility equipment resistant to flood damage;

b. Using methods and practices that minimize flood damage;

c. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. (Ord. #133, §8-4833; Ord. #2002-02, §2)

32-117.34 Elevation and Floodproofing.

(See definitions for "basement," "lowest floor," "new construction," "substantial damage" and "substantial improvement").

a. Residential construction, new or substantial improvement shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation. Base flood elevation shall be determined by one (1) of the methods in 32-117.23.b of this section.

b. Nonresidential construction shall either be elevated in conformance with subsection (a) or together with attendant utility and sanitary facilities:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

3. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Development Services Director.

c. All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement shall follow the guidelines in FEMA Technical Bulletins TB 10-93 and TB 7-93, and must exceed the following minimum criteria:

1. Have a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; or

2. Be certified by a registered professional engineer or architect.

d. Manufactured homes shall meet the standards in this section and also the standards in subsection 32-117.38.

e. Upon the completion of new structures or substantial improvements in Zone A, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Development Services Director. (Ord. #133, §8-4834; Ord. #2002-02, §2)

32-117.35 Standards for Storage of Materials and Equipment.

a. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

b. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning. (Ord. #133, §8-4835; Ord. #2002-02, §2)

32-117.36 Standards for Utilities.

a. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.

b. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. #133, §8-4836; Ord. #2002-02, §2)

32-117.37 Standards for Subdivisions.

a. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.

b. All final subdivision plans will provide the elevation of proposed structures and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and shall be provided to the Development Services Director.

c. All subdivision proposals shall be consistent with the need to minimize flood damage.

d. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

e. All subdivision proposals shall provide adequate drainage to reduce exposure to flood hazards. (Ord, #133, §8-4837; Ord. #2002-02, §2)

32-117.38 Standards for Manufactured Homes.

a. All new and substantially improved manufactured homes and additions to manufactured homes within Zone A on sites located:

1. Outside of a manufactured home park or subdivision;

2. In a new manufactured home park or subdivision;

3. In an expansion to an existing manufactured home park or subdivision; or

4. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood shall be elevated so that the lowest floor is at or above one (1) foot above the base flood elevation and be securely anchored to a permanent foundation system to resist flotation, collapse or lateral movement.

b. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions above shall be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:

1. Lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation; or

2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade.

c. Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Development Services Director. (Ord. #133, §8-4838; Ord. #2002-02, §2)

32-117.39 Floodways.

Areas designated as floodways are located within areas of special flood hazard established in subsection 32-117.12. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

a. Encroachment, including fill, new construction, substantial improvements, and other development, is prohibited, unless certification by a registered professional engineer or architect is provided demonstrating that the encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

b. If paragraph a. is satisfied, all new construction, substantial improvements and other proposed new development shall comply with all applicable flood hazard reduction provisions of this division. (Ord. #133, §8-4839; Ord. #2002-02, §2)

32-117.40 Reserved.

Division 5

FLOOD HAZARD VARIANCE PROCEDURES

32-117.41 Appeals.

a. The Planning Commission shall hear and decide appeals and requests for flood hazard variances from the requirements of this section.

b. The Planning Commission shall hear and decide appeals when it is alleged there is an error in a requirement, decision or determination made by the Development Services Director in the enforcement or administration of this section.

c. The decision of the Planning Commission may be appealed to the Town Council.

d. The time and manner for taking an appeal is as provided in Section 30-7. (Ord. #133, §8-4241; Ord. #2002-02, §2)

32-117.42 Standards for Review.

In considering an application for a flood hazard variance under this section, the reviewing body shall consider all the technical evaluations, all relevant factors, standards specified in other sections of the Municipal Code, and:

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

f. The compatibility of the proposed use with existing and anticipated development;

g. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

h. The safety of access to the property in times of flood for ordinary and emergency vehicles;

i. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

j. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges; and

k. The necessity to the facility of a waterfront location, where applicable. (Ord. #133, §8-4242; Ord. #2002-02, §2)

32-117.43 Issuance of Flood Hazard Variances.

a. A flood hazard variance may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the standards in subsection 32-117.42 have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

b. Upon consideration of the factors of subsection 32-117.42 and the purposes of this section, the Planning Commission may attach such conditions to the granting of flood hazard variances as it considers necessary to further the purposes of this section.

c. The Director of Development Services shall maintain the records of appeal actions and report any flood hazard variances to the

Federal Insurance Administration upon request. (Ord. #133, §8-4243; Ord. #2002-02, §2)

32-117.44 Conditions for Issuance of Flood Hazard Variances.

a. A flood hazard variance may be issued for the reconstruction, rehabilitation or restoration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this subsection.

b. A flood hazard variance shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

c. A flood hazard variance shall only be issued upon a determination that the flood hazard variance is the minimum necessary, considering the flood hazard, to afford relief. (Ord. #133, §8-4244; Ord. #2002-02, §2)

32-117.45 Showing Necessary for Flood Hazard Variance.

a. A flood hazard variance shall only be issued upon:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the flood hazard variance would result in exceptional hardship to the applicant; and

3. A determination that the granting of a flood hazard variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances.

b. Flood hazard variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provisions of this subsection and subsection 32-117.44 are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety. (Ord. #133, §8-4245; Ord. #2002-02, §2)

32-117.46 Notice of Flood Hazard Variance.

a. An applicant to whom a flood hazard variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

b. A copy of the notice shall be recorded by the Town Clerk in the office of the Contra Costa County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land. (Ord. #133, §8-4246; Ord. #2002-02, §2)

32-118—32-121 RESERVED.

ARTICLE XVI

REGULATIONS INVOLVING SPECIFIC USES

32-122 GASOLINE SERVICE STATIONS.

32-122.1 Permitted Activities.

A gasoline service station use which is an authorized land use under this chapter is limited to the following activities:

a. Supplying goods and services essential to the normal operation of automobiles, such as dispensing fuel and motor oil; vehicle washing and lubricating service; and the sale and servicing of tires, batteries, replacement items and other automobile accessories.

b. Minor automobile repair including the repair or replacement of all or portions of engines, transmissions, power trains and wheels of vehicles not exceeding one and one-half (1 1/2) ton capacity. This definition includes auto transmission repair, brake and wheel repair, radiator repair, fuel and electrical repair, and muffler repair and replacement. This does not include body or fender work, painting, or major automobile repair (repair and replacement of frames and bodies and the repair or replacement of engines, transmissions, power trains and wheels of vehicles exceeding one and one-half (1 1/2) ton capacity).

c. *A Towing Service.* As a condition of issuing a land use permit for a gasoline service station, the Planning Commission may limit the total number of tow trucks depending upon the size of the parcel, adequacy of screening, compatibility with surrounding uses and adequacy of public street access.

d. Sales accessory and incidental to the use of the premises as a gasoline service station if contained within the enclosed part of the building, such as:

1. The sale through coin operated vending machines of candy, gum, soft drinks, other nonalcoholic beverages or other food products, but excluding snack shops and convenience food marts.

2. The sale of small, non-food items such as cigarettes, key chains, pens and maps.

The sale of alcoholic beverages is prohibited.

e. Other activity if expressly authorized by an existing conditional use permit. (Ord. #44-84, §8-4301)

32-122.2 Conversion of Gasoline Service Stations.

a. *Conversion to Another Permitted Use.* The conversion of a premises designed for use as a gasoline service station to another use permitted in the land use district is subject to the following additional requirements:

1. No conversion is lawful until a development plan for it has been submitted and approved by the Planning Commission;

2. The structure shall meet building code standards for the proposed permitted use;

3. Each gasoline storage tank shall be filled with a suitable material or removed;

4. Bay doors shall be removed and replaced with a permanent wall;

5. Driveway and curb cuts shall be reconstructed to suit the proposed use;

6. Above ground pumps, islands and canopies shall be removed;

7. The converted building shall satisfy energy conservation requirements of the current Uniform Building Code; and

8. The landscaping, parking, signs and architectural design of the building are subject to approval by the Planning Commission as part of the Development Plan and shall be compatible with surrounding buildings in color, material and style.

b. *Combined Use.* A premises designed for use as a gasoline service station may be combined with another use permitted in the land use district (for example a snack shop or convenience market) subject to the following:

1. The combined use complies with subsection 32-117.2a., 1, 2, 5, 7, and 8.

2. The sale of alcoholic beverages is prohibited.

3. In exercising its discretion for approving or denying land use permits for mini-marts or snack shops, the Planning Commission and City Council shall take into account the concern to avoid the proliferation of mini-marts and snack shops.

(Ord. #44-84, §8-4302)

32-123—32-125 RESERVED.

32-126 CHILD CARE FACILITIES.

32-126.1 Purpose and Intent.

The purpose of this section is to implement the Public Facilities Section of the Danville General Plan (policies 7.11, 7.12 and 7.13); implementation strategy (D12) which calls for encouraging the development of quality child care in Danville; and further, to achieve the desired ratio of one (1) child care space per forty (40) residents Town wide, as identified in the Townwide Child Care Needs Assessment prepared as background to this section. Provision of quality child care requires a partnership between public and private participants and is necessary to promote the health and welfare of the citizens of the Town. The Town's responsibility shall be to establish land use policies and ordinances which promote the establishment of child care facilities and the initiation of child care services in the community. Establishment of such child care facilities and initiation of child care services will help satisfy the child care infrastructure requirements associated with new growth. It shall be the responsibility of new development to address child care needs associated with the development of new residential and non-residential projects within the Town. (Ord. #89-2, §8-5701)

32-126.2 Definitions.

As used in this chapter unless otherwise provided:

Child care facility means an existing or proposed child care facility including the site, building, equipment, and any accessory structures in which there are programs and personnel licensed by the State to provide child care services including but not limited to shelter, food, education and plan opportunities for fewer than twenty-four (24) hours per day.

Child care program means any preschool age or school age care program conducted within the following facilities:

a. Small family day care home (a facility licensed for the care of six (6) or fewer children)

b. Large family day care home (a facility licensed for the care of seven (7) to twelve (12) children)

c. Child care center (a facility licensed for the care of more than twelve (12) children)

Multiple family residential means attached residential structures including for-rental apartments or for-sale condominiums.

Occupancy means the actual physical inhabitation or use of a residential or non-residential building following completion of a final building inspection.

Project means a proposal for the development of improved or unimproved land, requiring the granting of an entitlement whether residential or nonresidential or both, which conforms to Town of Danville requirements. A project includes but is not limited to the development of a lot or parcel or larger acreage, conversion of an existing use to a different use, and expansion of a use.

Single family residential means a detached or attached residential structure including detached, patio or zero lot line, duplex and townhouse units.

(Ord, #89-2, §8-5702)

32-126.3 Applicability.

The provisions of this section shall apply to:

a. The developer of a residential project of one (1) or more dwelling units.

b. The developer of a non-residential project having a gross floor area of two thousand five hundred (2,500) square feet or more.

(Ord. #89-2, §8-5703)

32-126.4 Permitted Use.

Any child care facility provided as part of a project shall be permitted in all zoning districts except those designated as industrial. Child care facilities not a part of a project as defined by this section shall be subject to the Town's regulations and zoning ordinance. (Ord. #89-2, §8-5704)

32-126.5 Exemptions.

The following projects or uses are exempt from the provisions of this section:

a. Single family remodel or expansion;

b. Non-residential development of less than two thousand five hundred (2,500) gross square feet;

c. Child care facilities;

d. Schools;

e. Hospitals;

f. Churches;

g. Senior housing projects;

h. Second residential units as defined by Section 32-76 of the Danville Municipal Code;

i. Units dedicated for persons of low and moderate income through official agreement with the Town of Danville;

j. The significant repair or reconstruction of any structure due to damage from fire or other acts of God such that no intensification or enlargements of the use or structure occurs.

(Ord. #89-2, §8-5705)

32-126.6 General Requirements.

Prior to issuance of a building permit for any project defined herein, developer shall pay a fee or participate in the construction or establishment of child care facilities in accordance with the following:

a. *Fees.* The per unit fee shall be computed as follows:

1. Residential. For residential development the fee shall be determined by determining the number of preschool age and school age children per unit, multiplied by the percentage of residents anticipated to desire child care, multiplied by the per child cost of providing child care in Danville. For Danville this formula is computed as follows:

(a) For single family residential development this formula is .61 x .22 x $2490 for a fee of three hundred thirty five ($335.00) dollars per unit.

(b) For multi family residential development this formula is .21 x .22 x $2490 for a fee of one hundred fifteen ($115.00) dollars per unit.

2. Non-residential. A fee of twenty-five ($0.25) cents per square foot of net leasable area.

b. *Facilities in Lieu of Fees.* Residential projects which exceed fifty (50) units, and non-residential projects may satisfy child care requirements by participating in the construction or establishment of child care facilities in lieu of paying fees as stipulated in subsection 32-126.6. Such participation shall be determined and secured as follows:

1. The developer shall prepare a survey or assessment of the estimated child care needs generated by the proposed project together with an action plan addressing how the child care needs resulting from the project will be mitigated. The action plan shall include information on the location and capacity of existing or proposed child care facilities and how these will be used, established, maintained and operated. If the action plan recommends that child care facilities be provided by existing facilities or through proposed facilities which are not a part of the project, the developer shall provide sufficient information to determine that child care needs generated by the project shall be mitigated. The child care survey or assessment may be prepared by a qualified consultant or by the developer using the preschool and school age child yield rates contained in subsection 32-126.6a.,1 and 2 of this section, as approved by the Chief of Planning.

2. The Planning Department shall determine the type and extent of participation in the construction or establishment of facilities.

3. The Chief of Planning shall require the developer to submit written verification that these requirements have been met. This verification shall be sufficient to enable the Chief of Planning to readily determine compliance with the provisions of this section.

(Ord. #89-2, §8-5706)

32-126.7 Child Care Fund.

The Town of Danville shall establish a separate fund within which shall be placed all fees collected pursuant to this section. These funds shall be utilized in the following order of priority:

a. Establishment of school age child care facilities upon the campuses of Montair, Green Valley and any future elementary school sites constructed within the Town of Danville. Such sites shall be operated by a State licensed and qualified non-profit child care provider selected by the Town of Danville and the San Ramon Valley Unified School District based upon the following criteria:

1. Documented education, training and experience of provider and staff in managing and operating the type and size of facility proposed to be established;

2. Documented experience of the provider in the construction, establishment and start up of new child care facilities, including the ability to secure equipment and supplies for the proposed facility;

3. Evidence furnished by the provider that the program facilities, services and staff will meet or exceed quality and safety requirements established by the State of California.

4. Nature of facility ownership and program operation (whether owner-operated, profit or non-profit), financial resources and business management experience of applicant.

b. Purchase of land to be used for the development and ongoing operation of preschool age or school age child care facilities within the Town of Danville. Upon purchase of a site, the Town shall offer the site for lease or sale based upon establishment of a reduced purchase price. The Town shall solicit proposals from qualified child care providers, and select a provider to develop and operate a facility based upon the criteria identified in subsection 32-126.7a.,1 through 4.

c. Child care sites acquired, constructed or improved under this section must be utilized for the ongoing operation of preschool or school age child care consistent with the proposal submitted by the child care provider to the Town. Persons acquiring property or receiving funds under this section shall be required to enter into a written agreement with the Town setting forth the permitted uses of the property and providing for appropriate restitution to the Child Care Fund if a site developed under this section is subsequently used for different purposes or resold to other parties.

(Ord. #89-2, §8-5707)

32-126.8 Fees.

Upon receipt of an application to establish or expand a preschool or school-age child care facility, the Chief of Planning shall have the authority to reduce application filing fees required pursuant to Danville Ordinance No. 136, "Fees for Planning and Related Services." The City Engineer shall have the authority to reduce fees associated with extraordinary off site improvement costs for any preschool or school age child care project. (Ord. #89-2, §8-5708)

32-126.9 Deed Notification.

For residential projects which do not provide Covenants, Conditions and Restrictions, or similar documents, the developer of the project shall provide deed notification to all purchasers or lessees that a child care facility for up to twelve (12) children may be located at any residential unit or lot or in any common area or facility within the project. (Ord. #89-2, §8-5709)

32-126.10 Restrictive Covenants.

For residential projects which provide Covenants, Conditions and Restrictions or similar documents the developer shall include notice through the CC & Rs that a child care facility for up to twelve (12) children may be located at any residential unit or lot or in any common area or facility within the project. (Ord. #89-2, §8-5710)

32-126.11 Administration.

This section shall be administered by the Planning Division of the Town of Danville, with the exception of subsection 32-126.7 "Child Care Fund" which shall be administered by the Department of Administrative Services. (Ord. #89-2, §8-5711)

32-127—32-129 RESERVED.

32-130 SATELLITE ANTENNAS AND MICROWAVE EQUIPMENT.

32-130.1 General.

This section regulates the installation of satellite antennas and microwave equipment in all zoning districts within the Town. (Ord. #66-85, §8-2001)

32-130.2 Findings and Declaration.

The Council finds that the installation of satellite and microwave antennas and equipment can, unless controlled, affect the aesthetic and safety values of agricultural, residential, commercial and industrial areas. Therefore, the installation of these antennas and equipment is regulated to result in locations which are least visible from public rights-of-way in the vicinity, while not burdening adjacent property owners with adverse visual impacts. (Ord. #66-85, §8-2002)

32-130.3 Definitions. As used in this section:

Microwave receiving antenna means a device designed to receive signals transmitted from ground-mounted transmitters.

Satellite antenna means a device designed to receive signals transmitted from orbiting satellites.

(Ord. #66-85, §8-2003)

32-130.4 ***Satellite Antennas.***

A satellite antenna installed in any zoning district shall comply with the following general criteria:

a. A setback equal to the height of the antenna or the setback which applies to the principal structure, whichever is greater, is required between the property line and any part of the antenna. In addition, installation is prohibited between any street and principal building on the site, except as provided in subsection 32-130.4b. below.

b. In any case where a lot backs up to a public right-of-way or private street, a setback of fifteen (15') feet is required between the public right-of-way or the curb of a private street and any portion of the satellite antenna.

c. The maximum height of the antenna shall be twelve (12') feet measured from ground level immediately under the antenna to the highest point of the antenna or any appurtenance attached to it.

d. All wires and/or cables necessary for the operation of the antenna or reception for the signal shall be placed underground except those wires or cables attached flush with the surface of a building.

e. An antenna may not be installed with the use of guy wires.

f. An antenna may not have a highly reflective surface or color. In addition, colors should be subdued.

g. No more than one (1) antenna is allowed on a parcel.

h. Landscaping or solid screening shall be installed around an antenna to screen it from adjacent public streets, public areas of the development or adjacent properties. No such screening is required when the antenna is located such that it is not visible from adjacent public streets, public areas of the development or adjacent properties.

i. Additional landscape screening shall be installed around an antenna located in a hillside area where visibility from surrounding areas is greater.

j. A satellite antenna may not be installed on the roof of a structure.

k. An antenna shall be maintained in an operational state with no structural defects or visible damage.

l. The design and location of a satellite antenna must be approved by the Chief of Planning. The Chief of Planning shall establish application procedures and may require such plans and supplemental information as may be needed to properly review the application.

(Ord. #66-85, §8-2004)

32-130.5 Microwave Receiving Antennas.

Microwave receiving antenna installation shall comply with the following criteria:

a. A microwave receiving antenna installed in a residential zoning district or residential area of a planned unit district shall comply with the following:

1. The antenna may not exceed eighteen (18") inches in diameter and shall be mounted on a building or roof.

2. If installed on a roof, the highest point of the antenna may not extend higher than the diameter of the antenna above the roof surface directly under the antenna.

3. The design and location of the antenna are subject to approval by the Chief of Planning.

b. A microwave receiving antenna installed in any non-residential zoning district or non-residential portion of a planned unit district shall comply with the following:

1. Installation is prohibited in any required front or street side yard setback area.

2. All wires or cables necessary for the operation of the antenna or reception of the signal shall be placed underground, except those wires or cables attached flush with the surface of a building.

3. An antenna may not be installed with the use of guy wires.

4. The antenna shall be placed on the site so as not to interfere with on-site pedestrian or vehicular circulation.

5. Landscaping or solid screening shall be installed around the base of any tower so as to screen the tower from view and to provide a physical separation between the tower and any pedestrian or vehicular circulation.

6. The design and location of the antenna are subject to approval by the Planning Commission.

c. An antenna shall be maintained in an operational state with no structural defects or visible change to the antenna or its structure.

(Ord. #66-85, §8-2005)

32-130.6 Microwave Transmitting and Relay Equipment.

Microwave transmitting and relay equipment may be installed in any zoning district except residential districts or residential areas of

planned unit districts subject to obtaining a land use permit, and subject to all requirements of subsection 32-130.5b. (Ord. #66-85, §8-2006)

32-130.7 Granting of Land Use or Variance Permits.

A land use permit for microwave transmitting and relay equipment (subsection 32-130.6) or a variance permit to modify the provisions in subsections 32-130.4 through 32-130.6 may be granted in accordance with the procedure in Sections 32-3 and 2-8, respectively. (Ord. #66-85, §8-2007)

32-130.8 Non-exclusive Regulation.

This section supplements and is in addition to other regulatory codes, statutes and ordinances. (Ord. #66-85 §8-2008)

32-131—32-139 RESERVED.

ARTICLE XVII

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

32-140 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM FEE.

32-140.1 Intent and Purpose.

The Town Council finds and declares that:

a. The intent and purpose of this article is to create a fee to be collected of all new development to provide the minimum funding necessary to offset costs to Town resources in the implementation of a National Pollutant Discharge Elimination System (NPDES). In this regard, the Danville Town Council hereby finds, based on the staff report submitted herewith, and oral and documentary evidence submitted to the Town Council at a public hearing on August 6, 1991, that this fee does not exceed the reasonable cost of providing the service or regulatory activity for which the fee is charged and is not levied for general revenue purposes.

b. The Town of Danville does hereby support the Federal Environmental Protection Agency, the San Francisco Bay Region of the California Regional Water Quality Control Board, the Contra Costa County Flood Control and Water Conservation District and the local municipalities in the County of Contra Costa in their mutual efforts to identify and reduce storm water runoff pollutant discharge into the waters of San Francisco Bay.

c. New development within the Town of Danville does inherently create additional drainage volume and add to the existing pollutants entering the waters of San Francisco Bay.

d. The Town of Danville General Plan for Infrastructures has Goals and Policies specifying the incorporation of flood control systems to preserve existing waterways consistent with public safety and requires that the cost of upgrading those public facilities be borne by new developers and not existing residents.

e. The Town of Danville staff will be responsible for the implementation of portions of the Federal Clean Water Act requiring identification of pollutants and ultimately their removal from storm water runoff from sites within the Town's boundaries. In order to implement this program and comply with directives of the Town General Plan, Town staff and resources will be devoted to this end, and funding for this program shall be collected from new development.

f. This article is adopted under the police power of the Town, Article XI, Section 7 of the California Constitution, and under the appropriate provisions of the Planning and Zoning Law of the State of California, Government Code §66014 through §66018.

(Ord. #91-26, §1)

32-140.2 Fee Requirement.

A person who applies for a permit for the construction of a new (not for additions or remodels) residential or commercial building shall pay to the Town a National Pollutant Discharge Elimination System Fee for the elimination of storm drainage runoff pollutants. (Ord. #91-26, §l)

32-140.3 Fee Amount.

The amount of the fee shall be as established by resolution of the Town Council. (Ord. #91-26, §1; Ord, #98-06, §9)

32-140.4 Time of Payment.

The NPDES fee shall be paid to the Town of Danville before issuance of a building permit. (Ord #91-26, §1)

32-140.5 Exemptions.

The fee imposed by this section does not apply to a permit for the construction of a building for the following public and quasi-public uses:

a. Day care center;

b. Hospital, charitable or philanthropic institution or convalescent home;

c. Church, religious institution and parochial or private school including a nursery school;

d. Community building, club or activity of a public or quasi-public character;

e. Publicly owned building and structures.

(Ord. #91-26, §1)

32-141—32-145 RESERVED * 1

* Editor's Note: Former Section 32-141, Stormwater Management and Discharge Control, previously codified herein and containing Ord. #94-19 was repealed in its entirety by Ordinance No. 2004-06.

Notes

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ARTICLE XVIII

USE AND LIMITS

32-146 PURPOSE OF LAND OR FEES FOR SCHOOL PURPOSES.

a. *Use of Land and Fees.* All land or fees, or both, collected pursuant to this division and transferred to a school district shall be used only for the purpose of providing interim elementary or high school classroom and related facilities, including all mandated educational programs.

b. *Agreement for Fee Distribution.* Where two (2) separate school districts operate schools in an attendance area where the Town Council concurs that overcrowding conditions exist for both school districts, the Town Council will enter into an agreement with the governing body of each school district for the purpose of determining the distribution of revenues from the fees levied pursuant to this Article.

c. Fee *Fund and Land Records and Reports.* Any school district receiving funds or land pursuant to this Article shall maintain a separate account for any fees paid and disposition of land received and shall file a report with the board on the balance in the account at the end of the previous fiscal year and the facilities leased, purchased, or constructed during the previous fiscal year. In addition, the report shall specify which attendance areas will continue to be overcrowded when the fall term begins and where conditions of overcrowding will no longer exist. Such report shall be filed by August 1st of each year and shall be filed more frequently at the request of the Town Council.

d. *Termination of Dedication Requirements.* When it is determined that overcrowding conditions no longer exist in an attendance area, the County shall cease levying any fee or requiring the dedication of any land pursuant to this Article for the area.

32-147—32-149 RESERVED.

ARTICLE XIX

HAZARDOUS WASTE MANAGEMENT PLAN

32-150 COMPLIANCE WITH HAZARDOUS WASTE MANAGEMENT PLAN.

32-150.1 Consistency with Contra Costa County Hazardous Waste Management Plan.

All land use decisions (e.g., zoning amendments, subdivision maps, conditional use permits and variances) within the Town of Danville shall be consistent with applicable portions of the Contra Costa County Hazardous Waste Management Plan. (Ord. #91-04, §2)

Exhibit A (Section 32-98)

OLD TOWN—Indirect illumintation

[Click here to view a PDF of Exhibit A]