CHAPTER 1
ZONING

Sections:

Article 1 GENERAL PROVISIONS

9.1.102 Statutory Reference; Enforcement.

a. General Objectives of the Zoning Ordinance. The Zoning Ordinance is adopted to protect and promote public health, safety, peace, comfort, convenience, prosperity, and general welfare. More specifically, the Zoning Ordinance is adopted in order to achieve the following objectives:

1. To provide a guide for the physical development of Oakley's General Plan Land Use Diagram, which enables the City to achieve the land uses depicted as such.

2. To foster implementation of the goals and policies of the Oakley General Plan dealing with

land use, urban design, environmental protection, and public health and safety.

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

4. To promote the stability of existing land uses which conform with the Oakley General Plan and to protect them from inharmonious influences and harmful intrusions.

5. To ensure that public and private lands ultimately are used for the purposes that are most appropriate and most beneficial from the standpoint of the City.

6. To promote a safe, effective traffic circulation system.

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

8. To promote commercial and industrial activities in order to strengthen the City's tax base.

9. To protect and enhance real property values.

10. To safeguard and enhance the appearance of the City.

11. To assist in meeting the housing needs of Oakley.

b. Specific Objectives of the Zoning Ordinance as identified in the Oakley General Plan.

1. Establish within the Oakley Zoning Ordinance appropriate regulations to guide the Specific Plan (SP) and/or Planned Unit Development (PUD) process, including the extent to which development patterns may vary from land use patterns as depicted in the Land Use Diagram.

2. Within the City's Zoning Ordinance, establish a Business Park High designation that allows up to 2.0 FAR, and a Business Park Low designation that allows up to 1.0 FAR.

3. Within the City's Zoning Map, designate up to 30 acres of Business Park High, with the balance of this General Plan designation to be identified as Business Park Low on the Zoning Map.

c. Nature of the Zoning Ordinance.

1. The Zoning Ordinance shall consist of a zoning map designating certain districts, and a set of regulations requiring the provision of off-street parking and off-street loading facilities and controlling the uses of land; the density of population; the uses and locations of structures; the open spaces about structures; the appearance of certain uses and structures; and the areas and dimensions of sites; the location, size, and illumination of signs.

2. The provisions of the Zoning Ordinance shall not be deemed or construed to repeal, amend, modify, alter or change any other ordinance or any other part thereof not specifically

repealed, amended, modified, altered or changed herein. When provisions of the Zoning Ordinance are more restrictive than other ordinances or parts thereof, the Zoning Ordinance shall be applicable. When the Zoning Ordinance is not more restrictive, each such other ordinance shall remain in force and effect.

3. Except as otherwise specifically provided, no provision of the Zoning Ordinance shall be construed as relieving any party to whom a use permit, variance or zoning permit is issued from any other provision of state or federal law or from any provision, ordinance, rule or regulation of the City requiring a license, franchise or permit to accomplish, engage in, carry on or maintain a particular business, enterprise, occupation, transaction or use. However, no such license, franchise or permit shall be issued until there is compliance with the provisions of the Zoning Ordinance.

4. The Zoning Ordinance is not intended to abrogate, annul, impair or interfere with any deed restriction, covenant, easement or other agreement between parties, provided that where the Zoning Ordinance imposes a greater restriction on the use of land or structures of the height or bulk of structures, or requires greater open spaces about structures or greater areas or dimensions of sites than is imposed or required by deed restriction, covenant, easement or other agreement, the Zoning Ordinance shall control.

d. Interpretation. In their implementation and application, the provisions of the Zoning Ordinance shall be held to be minimum requirements. The Planning Commission shall have the power to hear and decide appeals of any order, requirement, permit, decision or determination made by the Community Development Director in the enforcement or administration of the Zoning Ordinance.

e. Applicability. The Zoning Ordinance shall apply to all property except public streets, whether owned by private persons, firms, corporations or organizations; by the United States of America or any of its agencies; by the state or any of its agencies or political subdivisions; by any city or county, including the City of Oakley or any of its agencies; or by any authority or district organized under the laws of the state. Such applicability shall be to the full extent that they may now or hereafter be enforceable in connection with the activities of any public agency or organization.

f. Districts Established. The Districts established by the Zoning Ordinance shall be as follows:

AL	Limited Agricultural District
A-4	Agriculture Preserve District
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
M-9	Multiple Family Residential District
M-12	Multiple Family Residential District
M-17	Multiple Family Residential District
MH	Manufactured Home District
AHO	Affordable Housing Overlay District
CD	Commercial Downtown
RB	Retail Business District
C	General Commercial District
BPH	Business Park High
BPL	Business Park Low
CR-A	Commercial Recreation, Aquatic
CR-NA	Commercial Recreation, Non-Aquatic
LI	Light Industrial District
UE	Utility Energy District
P	Public and Semi-Public District
A-4	Agriculture Preserve District
DR	Delta Recreation District
PR	Parks and Recreation District

P-1	Planned Unit Development
SP-1	Specific Plan

g. Consistency of Zoning Ordinance with Oakley General Plan. All actions, approvals and procedures taken in regard to the Zoning Ordinance shall be consistent with the Oakley General Plan. In the event the Zoning Ordinance becomes inconsistent with the Oakley General Plan by reason of the adoption of a new plan, or by amendment of the existing plan or any of its elements, the Zoning Ordinance shall be amended within a reasonable time so that it is consistent with the adopted plan or remains consistent with the existing plan as amended. Accordingly, all Zoning Ordinance amendments shall be consistent with the Oakley General Plan.

Article 2 DEFINITIONS.

9.1.202 Definitions Generally.

a. Construction and Use of Tenses.

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

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

b. Words and Phrases Defined.

1. "Accessory" shall mean that which belongs to something else deemed principal or something additional or accompanying as a subordinate.

2. "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 matter, or any other industrial use which may be objectionable because of odor, smoke, dust, or fumes.

3. "Agricultural Accessory Structure" shall mean a structure that is detached from a principal structure (dwelling) on the same lot, and customarily incidental and subordinate to the principal structure, and shall be used for storage of items typically used for agricultural uses (i.e., tractors, fertilizer, etc.).

4. "Small Animal Structures" shall mean a chicken house, rabbit hutch, or similar accessory structure for similar small animals.

5. "Large Animal Structures" shall mean a barn, stable or other building or accessory structure used to shelter livestock.

6. "Apartment Building" shall mean a detached building designed and used exclusively for

dwelling purposes by families occupying separate suites or apartment units, but not more than sixteen (16) suites or apartment units shall be contained in one (1) detached building.

7. "Apartment Building Group" shall mean two (2) or more detached single family buildings, duplexes, or suburban apartment buildings occupying a parcel of land in one (1) ownership, with common yards.

8. "Apartment Unit" shall mean a separate suite, including kitchen facilities, designed for and occupied as the home, residence, or sleeping place of one (1) or more persons living as a single housekeeping unit.

9. "Apiary" shall mean bees and hives wherever they are kept, located, or found.

10. "Arbors" are considered accessory structures and shall mean open trellis-like elements that can be used to emphasize building entries or outdoor activity spaces.

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

12. "Assembly Use" shall mean a land use that includes regular gatherings where fifty or more persons assemble as a group to participate in, listen to or view an event, such as a class, meeting, show or worship service. An assembly use does not include a use where persons commonly arrive and leave at varying times, such as when shopping or dining.

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

14. "Awnings" shall mean opaque canvas or synthetic fiber coverings that provide shade from sun and protection from the elements.

15. "Birds" shall mean a small, domesticated household pet such as songbirds and large tropical birds.

16. "Breezeway" shall mean a porch or roofed passageway open on the sides for connecting two buildings such as a house and garage.

17. "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 personal property.

18. "Building, Accessory" shall mean a subordinate building the use of which is incidental to that of a main building on the same lot. May include storage sheds, equipment enclosures, detached garages, gazebos, animal enclosures, and accessory living quarters without kitchen facilities. This does not include a second dwelling unit.

19. "Building Height" shall mean the vertical distance measured from the average level of the highest and lowest point of that portion of the lot covered by the building to the highest point of the structure with exceptions noted elsewhere in this Code.

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

21. "Building Site Area" shall mean the total land area of the property available for development of buildings, parking and landscape.

22. "Cemetery" shall mean land that 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.

23. "City Boundary" shall mean the boundary of this City and the boundary of any incorporated municipality within this City.

24. "City Limits" shall mean the limits of an area occupied by a city or town.

25. "Clubs" and "Lodges" shall mean meeting, recreational, or social facilities of a private or nonprofit organization primarily for use by members or guests. This classification includes union halls, social clubs and youth and senior centers.

26. "Communication Facilities" shall mean broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms, but excluding major utilities (see definition for "Utilities, Major"). This classification includes radio, television, or recording studios; telephone switching centers; telegraph offices; cell phone towers; and land use facilities supporting antennas and microwave dishes that send and/or receive radio-frequency signals. Communication facilities include structures (a.k.a. monopole, towers) and accessory buildings.

27. "Condominium" shall mean an estate in real property consisting of an undivided interest in common in portions of a parcel of real property together with a separate interest in a dwelling, industrial or commercial building on such real property, such as an apartment, office, warehouse or store. A condominium may include, in addition, a separate interest in other portions of such real property.

28. "Contractor’s Yard," including "Corporation Yard," "Public Utility Yard" or "General Service Yard" 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.

29. "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.

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

b. "Outer Court" shall mean a court that extends to a street line or extends to or opens on a front, side, or rear yard.

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

31. "District" shall mean a portion of the unincorporated territory of the City 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 and maximum heights are established for buildings and structures, under the regulations of this Zoning Ordinance.

32. "Dog Fancier" shall mean a person owning or keeping three (3) or more dogs over the age of six (6) months:

a. As pets;

b. For showing in recognized dog shows, field trials or obedience trials;

c. For working and hunting; or

d. For improving the variety of breed in temperament or conformation with a view to exhibition in shows or trials or for use as working dogs in hunting.

33. "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.

34. "Entertainment Niche" shall mean an internal recess in a wall constructed specifically for the purpose of housing home entertainment and/or electronic devices.

35. "Farming" small shall mean horticulture on a small area of land and the raising and keeping of fowl, rabbits, and other grain-fed rodents (See Section 4-A-1.3(11)).

36. Fence(s) shall mean a vertical, freestanding barrier or enclosure constructed of wood, masonry or metal which supports no load other than its own weight.

a. "Closed Fence" shall mean a fence in which more than fifty percent (50%) of the total surface area of the fence is solid material that cannot be seen through when viewed perpendicular to the face of the fence.

b. "Open Fence" shall mean a fence in which openings between the materials of which the fence is constructed represent not less than fifty percent (50%) of the total surface of the fence when viewed perpendicular to the face of the fence. For the purposes of example only, an open-picket style fence consisting of vertical slats or board measuring four inches across would be considered an open fence if there were at least four inches of open space between each picket.

37. "Fowl" shall mean a species of the avian family such as a chicken, duck, peacock, goose, turkey, or pheasant that is used as food or hunted as game.

38. "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.

39. "Frontage" shall mean the front of a building/lot or property line abutting on a public street or a private street, other than the side line of a corner lot.

40. "Funeral Home" shall mean an establishment in which the dead are prepared for burial or cremation and in which wakes and funerals may be held.

41. "Greenway" or "Greenbelt" shall mean linear open space that either connects Oakley's recreation facilities or protects scenic or biotic resources. Wherever possible, the greenways should provide recreational opportunity and/or preserve habitat. Greenways should not be leftover pieces of land that have no connection to other components of Oakley's trail and park system or habitat areas. Greenways should be dedicated along major riparian and drainage corridors, existing canal and railroad right-of-ways and as agricultural buffers.

42. "Hotel" 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 buildings where occupants are housed or detained under legal restraint, buildings for the refuge, maintenance, or education of needy, aged, infirm, or young persons, and buildings where patients or injured persons receive medical or surgical treatment.

43. "Improvement" shall mean a building, structure, place, parking facility, fence, gate, wall, work of art, or other object constituting a physical addition to real property, or any part of the physical addition.

44. "Industry, Marine-Related" shall mean establishments primarily engaged in the

manufacture of marine-related parts or products. This classification excludes boat yards.

45. "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; or where over twenty (20) dogs or over twenty (20) cats over the age of six (6) months are owned or kept;

Whenever commercial dog kennel is used in this Code, it refers to kennel as defined in this section.

46. "Large Animals" shall mean domesticated animals, such as cattle or horses, raised for home use or for profit, especially on a farm. For the purposes of this Zoning Ordinance, "large animals" and "livestock" shall have the same meaning.

47. "Legal Nonconforming Business" shall mean a business that does not conform to these regulations and that was in existence in a lawful manner prior to adoption of this section.

48. "Livestock" shall mean domesticated animals, such as cattle or horses, raised for home use or for profit, especially on a farm. For the purposes of this Zoning Ordinance, "large animals" and "livestock" shall have the same meaning.

49. Lot, definition of; dimensions of; area of.

a. Defined. "Lot" shall mean a piece, parcel, tract, or division of land, including one (1) delineated or described as a single integral unit on a subdivision map, and two (2) or more considered as one (1) pursuant to the standards set forth in the "Lot" subsection for each District described below.

b. Right-of-way excluded. No part of a lot within an existing or proposed public road, street, highway, right-of-way, or easement shall be used to satisfy minimum area, yard, dimensional or coverage requirements.

c. Lot, average width. "Lot Average Width" is the total area of the lot divided by the depth of the lot.

d. Lot depth or Depth. "Lot depth" or "Depth" shall mean the distance between the front and back lot lines, measured at the front setback line.

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

50. Manufactured Home; Manufactured Home Park; Site. Mobile Home; Mobile Home Park; Site.

a. "Manufactured Home" or "Mobile Home" shall have the same meaning for the purposes of this Zoning Ordinance.

b. "Manufactured Home" or "Mobile Home" shall mean any vehicle which is forty or more feet in overall length at its longest point or which exceeds eight feet in width at its widest point, is designed or used for human habitation, whether self-propelled or drawn by a motor vehicle, is intended for permanent or semipermanent use, and which has no foundation other than wheels and temporary stabilizing units.

c. "Manufactured Home Park" or "Mobile Home Park" shall mean any parcel of land, five acres or more, comprising a parcel or contiguous parcels used, designed or intended to accommodate manufactured homes.

d. "Manufactured Home Site" or "Mobile Home Site" shall mean any portion of a manufactured home park designated or used for the occupancy of one manufactured home and approved structures in connection with such use.

51. "Marina" shall mean a boat basin with docks, mooring facilities, supplies and equipment for small boats.

52. Map Symbols.

a. "Agricultural Limited Residential District AL" is AL

b. "Single family residential district R-6" is R-6

c. "Single family residential district R-7" is R-7

d. "Single family residential district R-10" is R-10

e. "Single family residential district R-12" is R-12

f. "Single family residential district R-15" is R-15

g. "Single family residential district R-20" is R-20

h. "Single family residential district R-40" is R-40

i. "Multiple family residential district M-9" is M-9

j. "Multiple family residential district M-12" is M-12

k. "Multiple family residential district M-17" is M-17

l. "Manufactured Home residential district MH" is MH

m. "Affordable Housing Overlay district AHO" is AHO

n. "Commercial Downtown district CD" is CD

o. "Retail-Business district RB" is RB symbol C

p. "Business Park High district BPH" is BPH

q. "Business Park Low district BPL" is BPL

r. "Commercial Recreation, Aquatic CR-A" is CR-A

s. "Commercial Recreation, Non-Aquatic CR-NA" is CR-NA

t. "Light Industrial district L-I" is LI

u. "Utility Energy district UE" is UE

v. "Public and Semi-Public district P" is P

w. "Agriculture Preserve district A-4" is A-4

x. "Delta Recreation district D-R" is DR

y. "Parks and Recreation district P-R" is PR

z. "Planned Unit Development district P-1" is P-1

aa. "Specific Plan SP-1" is SP-1

53. "Media Niche" shall mean an internal recess in a wall constructed specifically for the purpose of housing home entertainment and/or electronic devices.

54. Mixed use.

55. "Motel" shall mean detached or attached dwelling units providing automobile storage space for each dwelling unit and providing transient living accommodations primarily for automobile travelers.

56. "Multiple Family Building" shall mean a detached building designed and used exclusively as a dwelling by three (3) or more families occupying separate suites, apartments, town-homes, and condominiums.

57. "Multiple Family Building Group" shall mean two (2) or more detached single family buildings, duplexes, or multiple family buildings occupying a parcel of land in one (1) ownership, with common yards.

58. "Natural Feature" shall mean a tree, significant landscaping feature or significant geological formation.

59. "Non-Conforming Structure" shall mean a structure that was legally constructed prior to the effective date of the Zoning Ordinance, but which does not conform to the current provisions of the Zoning Ordinance or the Oakley General Plan, when and to the extent that the Zoning Ordinance has not been updated to conform to amendments to the Oakley General Plan.

60. "Non-Conforming Use" and "Legal Non-Conforming Use" shall mean a use of a structure or land that was legally established prior to the effective date of this ordinance but which does not conform to the current provisions of the Zoning Ordinance or the Oakley General Plan, when and to the extent that the Zoning Ordinance has not been updated to conform to amendments to the Oakley General Plan.

61. "Non-Livestock" shall mean a very limited number of cats and dogs as found within a suburban, residential environment, and does not include kennels or catteries (where one (1) or more dogs or cats are kept or maintained for commercial purposes).

62. Paving. "Paving" shall mean asphaltic, concrete, or other permanent impervious surfacing material.

63. Single Family Dwelling. "Single Family Dwelling" shall mean a detached building or part of it, designed for occupation as the residence of one (1) family.

64. Outdoor Sales. "Outdoor Sales" shall mean any outdoor sale or display of merchandise on a regular or continuing basis.

65. Outdoor Vending Facilities. "Outdoor Vending Facilities" shall mean the sale of prepared food, fresh cut flowers or plants, agricultural products, artwork, crafts, wares, merchandise, things or articles of value, seasonal sales and events selling items from a stand, motorized vehicle, non-motorized stationary or non-stationary cart or pushcart, or any other type of sales not within an enclosed building on a temporary basis.

66. Park. "Park" shall mean a piece of ground kept for ornament and recreation or an area maintained in its natural state as a public property. "Joint School/Community Use Parks" shall mean areas which are used exclusively by the schools during the school day and are available to the public after school hours and on weekends; "Public Park" or "Day Use Park" shall describe parks, or those parts of a park site, that are available to the general public for use during all daylight hours.

a. "Neighborhood Park" shall mean parks which generally abut residential areas and have amenities such as play areas, picnic areas, gathering areas, and open turf. These

parks have turf areas suitable for informal play, practices, and scrimmages, but not formal games.

b. "Community Park" shall mean parks that are generally designed to serve the needs of several neighborhoods, up to the whole community. These parks are intended to host organized, formal recreation leagues and tournaments to provide for adult recreation opportunities that would require larger fields and therefore larger sites.

i. "Dual-Use Community Park" shall mean a park site with a detention basin or additional park-related use coupled with it.

ii. "Community Gathering Area" shall mean an area designated especially for special family events (i.e., birthday parties, graduation celebrations), festivals, and/or an area set-aside for the future civic center and plaza.

67. "Poultry" shall mean a domesticated species of the avian family customarily kept for eggs or meat, including but not limited to chickens, ducks, geese, and turkeys.

68. "Private Nuisance" shall mean an interference with a person's interest in the use and enjoyment of his/her land.

69. "Public Nuisance" shall mean an unreasonable interference with the health, safety, peace, or comfort of the community.

70. "Research and Development Services" shall mean establishments primarily engaged in industrial or scientific research, including limited product testing. This classification includes electronic research firms or pharmaceutical research laboratories, but excludes manufacturing, except of prototypes, or medical testing and analysis.

71. Second Dwelling Unit.

a. "Attached Second Unit" shall mean a dwelling unit that is attached to the primary residence by any means, including a common wall, roof, or floor.

b. "Detached Second Unit" shall mean a dwelling unit that is not attached to the primary residence by any means, including a common wall, roof, or floor.

c. "Efficiency Unit" shall mean a separate living space with a minimum floor area of 150 square feet intended for occupancy by no more than two persons which contains partial kitchen and bathroom facilities. For the purpose of this section, efficiency unit has the same meaning as Section 17958.1 of the Health and Safety Code.

d. "Legal Nonconforming Second Unit" shall mean a second unit that presently constitutes a nonconforming second unit, but that, at the time of its construction, did

comply with the applicable zoning district regulations affecting that property.

e. "Manufactured Home" shall mean a transportable structure which in the traveling mode is 8 feet or more in width and 40 feet or more in length and is a minimum of 320 square feet and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation. For the purpose of this section, manufactured home has the same meaning as Section 18007 of the Health and Safety Code.

f. "Second Unit" shall mean a dwelling unit, per State GC 65852.2, that provides complete, independent living facilities for one or more persons residing together as a single household unit. No more than one new additional dwelling unit, attached or detached, shall be located on any one legal lot or parcel. It consists of permanent provisions for living, sleeping, water and sanitation facilities, eating, and separate food preparation facilities, including but not limited to a stove, oven, refrigerator, and sink. A second unit is clearly subordinate in size, appearance, and location to the other residence on the lot or parcel. A second unit also includes efficiency units and manufactured homes. Second dwelling units are not considered "accessory buildings."

72. "Secondary Front (Corner Condition)" shall mean the exposed side yard of a corner lot, which fronts onto the street.

73. "Secondary Frontage" shall mean a building or lot having frontage on two parallel or approximately parallel streets.

74. "Setbacks From Street Corner" shall mean that point of intersection of the required setback lines from access streets, prolonged to the point of intersection.

75. "Sign, Accessory" or "Accessory Sign" shall mean any surface or portion thereof, on which lettered, figured or pictorial matter is displayed for the purpose of advertising or identifying goods and services sold or produced on the property upon which the surface is located.

76. "Sign, Non-Accessory" or "Non-Accessory Sign" shall mean any surface or portion thereof, on which lettered, figured or pictorial matter is displayed for purposes of advertising other than the name and occupation of the user of the premises on which the surface is located, or advertising other than the nature of the business or activity conducted thereon, or advertising of goods and services other than those primarily sold or produced thereon.

77. "Sign Structure" shall mean any structure whose primary purpose is to support an accessory sign or non-accessory sign.

78. "Small Animals" shall mean chinchillas, hamsters, rabbits, and other grain-fed rodents

as found within the context of small farming activities.

79. "Small Animal Structures" shall mean a structure in which small animals or poultry are housed (i.e., chicken house, rabbit hutch, or similar accessory structure for similar small animals).

80. "Small Farming" shall mean the limited raising of crops and livestock within city boundaries, as permitted within designated zoning districts.

81. "Specialty Food Shop" shall mean retail businesses whose primary activities include sales of confectionery, nuts (packaged), coffee and tea (packaged), dairy products, gourmet foods, and spices. Retailers who are also chocolate manufacturers, bread and bakery product manufacturers, meat markets and fruit are specifically excluded from this category.

82. "Story" shall mean that portion of a building included between the upper surface of any floor and the upper surface of the next floor 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 feet (6') above grade at any point, such basement or cellar shall be considered a story.

83. "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 feet (3') above the floor of such building portion.

84. "Structure" means anything permanently or temporarily constructed or erected on land, except: (a) fences as defined in this chapter, (b) sidewalks, gateways, pipes, meters, meter boxes, manholes, and mailboxes, and (c) 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.

85. "Temporary Sales Event" shall mean an outdoor sales event where merchandise is displayed entirely on site and lasts no longer than six (6) days every six (6) months.

86. "Trail" shall mean a designated or established path or track which provides recreational, aesthetic, alternate transportation or educational opportunities which are accessible for all users extending benefit to older adults and children, families with strollers and people with disabilities. A local trail system will provide interconnections within the local community and linkages to the regional trail system for pedestrian, equestrian, and non-motorized transportation use, with bicycle lanes serving as a functional adjunct to the local traffic circulation system.

a. "Pedestrian Trail" shall mean trails consisting of local bicycle and public street and sidewalk systems whenever possible. Surfaces for pedestrian trails should be paved with

asphalt cement for all-weather use.

b. "Bicycle Trail" or "Bike Path" shall mean trails separated from automotive traffic for the preferential use by bicyclists.

i. "Class I Bike Route" shall mean a bike path, which is separated from vehicular facilities by space, plant materials, or physical barriers such as guardrails or curbing.

ii. "Class II Bike Route" shall mean a bike path, which is located along the edge of the paved area or between the parking lane and the first motor vehicle lane.

iii. "Class III Bike Route" shall mean a bike path where bicycles share the roadway with motor vehicles, where the bike path is often only marked by "Bike Route" signage, and may or may not have white shoulder lines delineating the bike path lane.

c. "Equestrian Trail" shall mean trails, which are separate from pedestrian and bike trails and vehicular roadways. Surfaces for equestrian trails should be constructed of compacted soil and quarry wastes, rather than all-weather surface treatments.

d. "Multi-Use Trail" shall mean trails, which accommodate multiple modes of transportation wherever possible. Multi-use trails must be designed to provide safe resolutions of potential conflicts between users, animals, and vehicles.

87. "Transit-Mix Plant" shall mean a use of land and equipment incidental to the erection, maintenance, and use of plants, including fixtures and machinery, for the handling, sorting, shipment, transshipment, storage, mixing, and grading of building materials, including sand, gravel, and cement but not including hot tar, asphalt, or other similar bitumen. A "Transit-mix Plant" includes buildings, structures, bins, chutes, bunkers, silos, hoists, elevators, hoppers, or conveyors designed, intended for, and used in the preparation of concrete ready-mix for shipment in trucks and transit-mixers from the premises.

88. "Urban Limit Line (ULL)" shall mean a documented conservation policy boundary established by the County beyond which only 35% of urban development shall be permitted or serviced, while the remaining 65% of the land beyond the ULL shall be preserved for agriculture, open space, wetlands, parks and other non-urban uses.

a. "Urban development" shall mean development requiring one or more basic municipal services including, but not limited to, water service, sewer, improved storm drainage facilities, fire hydrants and other physical public facilities and services.

89. "Use" shall mean the purpose of which land or a building is arranged, designed, or

intended, or for which either land or a building is or may be occupied or maintained.

90. "Use, Accessory" or "Accessory Use" shall mean a use incidental and accessory to the principal use of a lot, or a use accessory to the principal use of a building located on the same lot.

91. "Major Utilities" shall mean major, area-wide interstate or intrastate infrastructure facilities and services, which may or may not have employees at the site. Such facilities and services may be publicly or privately owned and operated, and may include the following uses: electrical substations; electrical generating plants; electrical transmission lines; electrical switching facilities and primary substations; petroleum transmission lines and pumping stations; water and wastewater treatment plants; and water tanks.

92. "Yacht Clubs" shall mean meeting, recreational, social and support facilities of an organization primarily used to promote and regulate yachting and boating.

93. "Yard" shall mean an open space other than a court, on the same lot with the building, which open space is unoccupied from the ground upward to the sky, except as otherwise provided in this Zoning Ordinance.

a. "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. If any setback is established by this Zoning Ordinance for a lot, 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.

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

c. "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 yard to the rear yard of the lot.

94. "Zoning Compliance Certificate" shall mean that form which details the nature of a business and certifies that it meets the requirements of this section.

95. "Family Child Care Home, Large" shall mean a home which regularly provides care, protection, and supervision in the provider’s own home for nine to fourteen children, inclusive, including children under the age of ten years who reside at the home. For the purpose of this section, Family Child Care Home, Large, has the same meaning as Section §1597.465 of the State’s Health and Safety Code.

96. "Family Child Care Home, Small" shall mean a home which regularly provides care, protection, and supervision in the provider's own home for eight or fewer children, including children under the age of 10 years who reside at the home. For the purpose of this section, Family Child Care Home, Small, has the same meaning as Section §1597.44 of the State's Health and Safety Code.

97. "Balcony" is a platform that projects from a wall of a building, typically above the first level, and is surrounded by a rail balustrade or parapet.

98. "Carport" means a permanently roofed structure with one or more open sides for the parking or temporary storage of automobiles.

99. "Deck" is a platform, either freestanding or attached to a building, that is supported by pillars or posts (see also OMC Section 9.1.202(b)(97), "Balcony").

100. "Patio" is an area, usually paved, adjoining a house and used as an area for outdoor lounging, dining, etc. Patios may be covered or uncovered.

101. "Transitional Housing" means (per Health and Safety Code Section 50675.2(h)) buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

102. "Supportive Housing" means (per Health and Safety Code Section 50675.14(b)) housing with no limit on the length of stay, that is occupied by a target population as defined in subdivision (d) of Section 53260, and that is linked to on-site or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

103. "Residential Care Facilities" means a facility that is a resident-occupied dwelling, licensed by the State and/or County, that provides housing and care for children and/or adults on a full-time, live-in basis.

(Sec. 2(A), Ordinance No. 02-16, adopted January 12, 2016; Secs. 1, 2, Ordinance No. 08-15, adopted July 14, 2015; Sec. 1, Ordinance No. 14-10, adopted September 14, 2010; Sec. 2, Ordinance No. 03-09, amended January 27, 2009)

Article 3 ZONING MAP; DISTRICTS ESTABLISHED

9.1.302 Zoning Map Adopted.

a. Adoption of Zoning Maps with Changes.

1. Purpose and Intent. The Zoning Map is established in order to delineate the locations and

boundaries of the various zones established in this Zoning Ordinance.

2. Land Subject to Zoning. The use of all land in the City of Oakley that 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.

b. District Amendments.

Zoning Map Updated. The Community Development Department shall maintain a copy of the Zoning Map of the City of Oakley available for public inspection, and shall record thereon and therein all changes made in the boundaries and designations of the City's various land use districts.

c. 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 the entire City, and the land use districts designated on the maps adopted by subsection (a) are established and classified in this article.

A. AL Agricultural Limited residential district

B. R-6 Single family residential district

C. R-7 Single family residential district

D. R-10 Single family residential district

E. R-12 Single family residential district

F. R-15 Single family residential district

G. R-20 Single family residential district

H. R-40 Single family residential district

I. M-9 Multiple family residential district

J. M-12 Multiple family residential district

K. M-17 Multiple family residential district

L. MH Mobile Home residential district

M. AHO Affordable Housing Overlay district

N. CD Commercial Downtown district

O. RB Retail-Business district

P. C Commercial district

Q. BPH Business Park High district

R. BPL Business Park Low district

S. CR Commercial Recreation

T. LI Light Industrial district

U. UE Utility Energy district

V. P Public and Semi-Public district

W. A-4 Agriculture Preserve district

X. DR Delta Recreation district

Y. PR Parks and Recreation district

Z. P-1 Planned Unit Development

AA. SP-1 Specific Plan

Article 4 DISTRICT REGULATIONS: RESIDENTIAL

9.1.402 Limited Agricultural District (AL).

a. Purpose and Intent. The purpose of the AL District is to provide an area for agricultural uses and to permit rural development and agricultural uses that are compatible with nearby single family and multiple family residential zoning. Intense agricultural uses which create strong, obnoxious odors, or which might disturb adjacent or nearby residential areas with intense noise or vibration are not appropriate for the AL Agricultural District.

b. Permitted Uses. The following uses are permitted in a single family residential district:

1. All types of limited agriculture, general farming including crops and tree-farming, [excluding raising or keeping any animals other than ordinary household pets (i.e. non-livestock)], horticulture, floriculture, nurseries and greenhouses, and mushroom rooms;

2. A detached single family dwelling on each parcel and the accessory structures and uses normally auxiliary to it (0.1 to 1.0 dwelling unit per gross acre);

3. Second Dwelling Units, per Section 9.1.1102;

4. Home Based Businesses, per Section 9.1.1120;

5. Large Family Child Care Homes, per Section 9.1.1121;

6. Small family day care;

7. Publicly owned parks and playgrounds;

8. Small farming, including the raising of fowl (i.e. chickens, ducks, geese, turkeys, or pheasants raised primarily for home consumption), apiaries, aviaries (i.e. wild or domesticated pigeons and other birds raised primarily for sporting purposes), small animals (i.e. chinchillas, hamsters, rabbits), and other grain-fed rodents shall be allowed only under the following conditions:

a. Twenty (20) of any one or combination of such fowl, pigeons, small animals, or other grain fed rodents shall be permitted on a site of no less than one acre (43,560 sq. ft.);

b. No structure housing fowl, pigeons, small animals, or other grain-fed rodents shall be closer than 25 feet to a habitable dwelling unit, church, or school, nor shall such small animal housing be closer than 50 feet from the property line adjacent to any residential district;

c. All enclosures shall be of sound construction, maintained in a clean and hygienic manner and shall not be permitted to create offensive odors or allow the propagation of flies and other insects;

d. All feed shall be stored in containers which protect against rodents and insects;

e. All small farming activities shall be conducted in a manner which shall not create a public nuisance to adjacent residential uses.

9. Horses and livestock shall be allowed only under the following conditions, and may require additional conditions as deemed appropriate by the Planning Commission:

i. Horses and livestock permitted in this zoning district are limited to a maximum of one (1) animal on a minimum parcel of one-half (½) acre and one (1) animal for each additional 10,000 square feet on a parcel greater than one-half (½) acre;

ii. Permanent commercial livestock auction activities are not permitted within this zoning district; private auctions are permitted bi-annually with a temporary use permit (See 4-B-1.3 (B));

iii. All stables and livestock facilities shall be kept in a hygienic manner and shall not be permitted to create offensive odors or allow the propagation of flies and other insects;

iv. No horses or livestock shall be permitted to become a public nuisance to adjacent

residential uses.

c. Uses Requiring a Conditional Use Permit. In the AL district, the following uses are permitted on the issuance of a conditional use permit:

1. Commercial recreational facilities when the principal use is not in a building;

2. A second single family dwelling (not a second dwelling unit per Section 9.1.1102);

3. Dog kennels shall be allowed only under the following conditions, and may require additional conditions as deemed appropriate by the Planning Commission:

a. All facilities shall be kept in a hygienic manner and shall not be permitted to create offensive odors or allow the propagation of flies and other insects;

b. No dog kennel shall be permitted to become a public nuisance to adjacent residential uses.

4. Dude ranches, riding academies and stables shall be allowed only under the following conditions, and may require additional conditions as deemed appropriate by the Planning Commission:

i. One (1) horse allowed per parcel, with additional horses allowed on lots greater than one-half acre at the following rate – one additional animal per 10,000 square feet in excess of one-half acre.

ii. No stable shall be located closer than 50 ft. to any habitable dwelling unit on the site, or closer than 100 feet to the property line adjacent to any residential district;

iii. All facilities shall be kept in a hygienic manner and shall not be permitted to create offensive odors or allow the propagation of flies and other insects;

iv. All feed shall be stored in containers that protect against rodents and insects;

v. No dude ranch, riding academy, or stable shall be permitted to become a public nuisance to adjacent residential uses.

5. Publicly owned buildings and structures;

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

7. Merchandising of agricultural supplies and services incidental to an agricultural use;

8. A stand for the sale of agricultural products grown on the premises;

9. Wineries, tasting rooms, and processing of agricultural products.

d. Uses Requiring a Temporary Use Permit. In the AL District, the following uses are permitted on the issuance of a Temporary Use Permit in accordance with Chapter 10:

1. Temporary livestock auctions shall be allowed under the following conditions, and require the approval of a Temporary Use Permit subject to additional conditions as deemed appropriate by the Planning Commission:

a. Livestock auctions shall be conducted by private parties, and shall not be associated with a commercial operation;

b. Temporary auctions shall be held no more than two (2) times per year; and

c. A maximum total of ten (10) livestock shall be auctioned at any one bi-annual event.

2. Temporary raising of up to three (3) additional livestock for educational (i.e. 4-H, FFA) purposes for up to four (4) months on a parcel at least one-half acre subject to the following conditions, in addition to any others deemed appropriate by the Planning Commission:

i. The subject property must have adequate facilities for the additional livestock during the four-month period;

ii. All livestock facilities must be kept in a hygienic manner and shall not be permitted to create offensive odors or allow the propagation of flies and other insects;

iii. If any of the conditions of the Temporary Use Permit are violated or the keeping of subject livestock becomes a nuisance to adjacent properties, the subject TUP is revocable.

e. Lot Requirements.

Uses allowable under subsection (b) and (c) of this section are allowed only on lots which equal or exceed all of the following:

Minimum Lot Requirements	**Limited Agriculture (AL)[1]**
Lot Area (in square feet)	43,560 – 435,600 (1 – 10 acres)
Lot Width	100 feet
Lot Depth	200 feet
Notes:	
1. Existing Legal Lots Excepted. Any single lot legally created in	

an AL district before the effective date of this Zoning Ordinance, at least forty thousand (40,000) square feet in area may be used as provided in subsection (b) and (c) of this section.

f. Yard Requirements.

An accessory building or accessory use may occupy not more than thirty percent (30%) of a required rear yard.

Minimum Yard Requirements (in feet)	**Limited Agriculture (AL)**
Front Yard[1]	25
Rear Yard	15
Aggregate Width of Side Yard[2]	40
Width of One Side	20
Notes	
1. The setback (front yard) width shall be at least twenty-five feet (25') for any structure in the AL district except on corner lots, where the principal frontage of the lot shall have a setback of at least twenty-five feet (25') and the other setback shall be at least twenty feet (20');	
2. Barns, stables, apiaries, aviaries, or other buildings or structures used to house livestock, grain-fed rodents, bees, birds, or poultry shall not be located in the AL district nearer than fifty feet (50') to the boundary line of any residential land use district;	

g. Building Height.

Building Height Requirements (in feet)	**Limited Agriculture (AL)**
Maximum Building Height	Structures or buildings herein permitted shall not exceed two and one-half (2 1/2) stories or thirty-five feet (35') in height, whichever is greater.

Maximum Accessory Building Height:	N/A
Special Height Requirements and Exceptions	See Section 9.1.1124

h. Other Regulations.

1. Fencing. Residential fencing regulations shall comply with Section 9.1.1110.

(Sec. 2, Ordinance No. 13-07, amended July 9, 2007)

9.1.404 Single-Family Residential Districts (R-6; R-7; R-10; R-12; R-15; R-20; R-40).

a. Purpose and Intent. The purpose of the single-family residential district regulations is to allow a designated area for single-family residential district development designed to provide as much compatibility as possible with nearby zoning. Intense agricultural uses which create strong or obnoxious odors, or which might disturb adjacent or nearby residential areas with noise or vibration, are not appropriate for the single-family residential zoning districts. The City of Oakley Residential Design Guidelines (see Appendix A of this chapter) should also be referred to as they contain additional information regarding mandatory and suggested guidelines for residentially zoned areas.

b. Permitted Uses. The following uses are permitted in a single-family residential district:

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

2) Second dwelling units, per Section 9.1.1102;

3) Home-based businesses, per Section 9.1.1120;

4) Large family child care homes, per Section 9.1.1121;

5) Small family day care;

6) Transitional housing;

7) Supportive housing;

8) Residential care facilities serving six or fewer persons;

9) Horticulture;

10) Publicly owned parks and playgrounds;

11) Household pets as follows:

a) No more than three dogs over six months of age and no more than five cats over six months of age, in accordance with Chapter 4.17 of the Oakley Municipal Code (Animal Control);

b) No more than three chickens and three rabbits;

c) Roosters shall be prohibited in all residential districts;

d) Structures housing household pets in R-6, R-7, R-10, R-12 or R-15 residential districts shall be subject to the guidelines provided in Article 18 of this chapter (Accessory Structures);

12) Small farming, including the raising of fowl (i.e., chickens, ducks, geese, turkeys, or pheasants raised primarily for home consumption) and small animals (i.e., rabbits), shall be allowed only under the following conditions, and may require additional conditions as deemed appropriate by the Planning Commission:

a) Small farming activities shall be permitted only in the R-20 and R-40 residential districts;

b) A maximum of ten (10) of any one or combination of such fowl or small animals shall be permitted on a site of twenty thousand (20,000) square feet or more;

c) A maximum of twenty (20) of any one or combination of such fowl or small animals shall be permitted on a site of no less than one acre (forty-three thousand five hundred sixty (43,560) square feet);

d) No structure housing fowl or small animals shall be closer than twenty-five (25) feet to a habitable dwelling unit, or school, nor shall such small animal housing be closer than fifty (50) feet from the property line;

e) Fowl and small animal enclosures shall be of sound construction, maintained in a clean and hygienic manner and shall not be permitted to create offensive odors or allow the propagation of flies and other insects;

f) Fowl and small animal feed shall be stored in containers that protect against rodents and insects;

g) All small farming activities shall be conducted in a manner that shall not create a public nuisance to adjacent uses;

13) Horses shall be allowed only under the following conditions, and may require additional conditions as deemed appropriate by the Planning Commission:

a) Horses shall be permitted only in the R-40 residential district;

b) Horses permitted in this zoning district are limited to a maximum of one horse on a minimum parcel of twenty thousand (20,000) square feet and one additional horse for each additional ten thousand (10,000) square feet on a parcel greater than twenty thousand (20,000) square feet;

c) All stables and equestrian facilities shall be kept in a hygienic manner and shall not be permitted to create offensive odors or allow the propagation of flies and other insects;

d) No horses shall be permitted to become a public nuisance to adjacent residential uses;

14) Bees shall be allowed only under the following conditions:

a) Definitions.

(1) "Bee" shall mean any stage of the common domestic honey bee, Apis mellifera species;

(2) "Hive" shall mean a structure for the housing of a bee colony;

(3) "Requeen" means to replace the queen bee in a colony with a younger and more productive queen, a common practice in beekeeping to prevent bee swarming.

b) General Requirements.

(1) Hives may only be maintained in the single-family or agricultural districts, not in multi-family or mobile home districts;

(2) No more than two hives may be maintained on any single-family residential lot;

(3) All bee colonies shall be kept in inspectable hives consisting of movable frames and combs;

(4) Hives must be kept in sound and usable condition at all times.

c) Hive Placement Requirements.

(1) Hives shall be located at least twenty-five (25) feet from all property lines or be screened by a barrier as described below, or one hundred (100) feet from any licensed large day care facility.

(2) Hives shall be screened so that bees must fly over a six-foot barrier, which may be vegetative, before leaving the property; if placed above a barrier, hives shall be placed at least twenty (20) feet from the front property line, fifteen (15) feet from

the rear property line, and at least five feet from side property lines.

d) Hive Management Requirements.

(1) Hives shall be continually managed to provide adequate living space for the resident bees to prevent swarming.

(2) Hives shall be requeened as necessary but at least every three years to prevent swarming.

(3) A water source for bees shall be provided at all times on the property where the bees are kept to discourage bee visitation at swimming pools, hose bibs and other water sources on adjacent public or private property. The water source shall not be allowed to become stagnant in a manner that would propagate mosquitos.

(4) Hive maintenance materials or equipment must be stored in a sealed container or placed within a building or other bee-proof enclosure.

c. Uses Requiring a Conditional Use Permit. The following uses are permitted upon the issuance of a conditional use permit:

1) Assembly uses;

2) Commercial radio and television receiving and transmitting facilities other than broadcasting studios and business offices;

3) 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;

4) Day care centers;

5) Hospitals, eleemosynary and philanthropic institutions, and convalescent homes;

6) Public, parochial, and private schools including nursery schools;

7) Publicly owned buildings and structures (except that accessory and appurtenant structures forming a part of public utilities, publicly owned utilities and pipelines are not regulated by this chapter);

8) Residential care facilities serving seven or more persons;

9) Wineries, tasting rooms, and processing of agricultural products only in the R-20 and R-40 residential districts.

d. Uses Requiring a Temporary Use Permit. Temporary uses in the R districts are subject to the regulations set forth in Section 9.1.1606.

e. Lot Requirements. Single-family dwellings or other structures permitted under this section may not be erected or placed on a lot with less than the following minimum requirements:

Minimum Lot Requirements	R-6	R-7	R-10	R-12	R-15	R-20	R-40
Lot Area (in square feet)	6,000	7,000	10,000	12,000	15,000	20,000	40,000
Lot Width (in feet)	60	60	60	70	70	80	140
Lot Depth (in feet)	80	90	100	100	100	120	140

f. Yard Requirements.

1) The following minimum requirements apply to front yard, rear yard, side yard, and corner side yard setbacks:

Minimum Yard Requirements (In Feet):	R-6	R-7	R-10	R-12	R-15	R-20	R-40
Front Yard	20	20	20	20	20	25	25
Secondary Frontage	15	15	15	15	15	20	20
Rear Yard	15	15	15	15	15	15	15
Aggregate Width of Side Yard	15	15	20	25	25	35	40
Width of One Side	5	5	5	10	10	15	20
Corner Side	15	15	15	15	15	20	20

2) The minimum aggregate setback between adjacent two-story elements on separate lots shall be fifteen (15) feet.

3) Mechanical Equipment in Yard Setbacks. Ground-mounted mechanical equipment shall be screened from view with adequate landscaping or fencing and provide a minimum three feet of horizontal clearance on at least one side.

4) Accessory structure setbacks are subject to Article 18 of this chapter (Accessory Structures).

5) Accessory Structures in Rear Yards. An accessory structure, or combination of more

than one accessory structure, may occupy not more than fifty percent (50%) of a required rear yard.

6. In addition to the above minimum requirements, additional setback provisions, including but not limited to the provision for providing larger side yard setbacks adjacent to the garage to provide room for side-yard RV and boat parking, are included in the City of Oakley Residential Design Guidelines.

g. Building Height.

Building Height Requirements (In Feet)	**Single-Family Residential Districts (R-6; R-7; R-10; R-12; R-15; R-20; R-40).**
Maximum Building Height	A. Single-family dwellings or other structures permitted under this section shall not exceed two stories or thirty (30) feet in height;
	See Section 3, Page 12 of the Residential Design Guidelines for other height provisions.
Special Height Requirements and Exceptions	See Section 9.1.1124.

h. Other Regulations.

1) All new development shall be consistent with the City of Oakley Residential Design Guidelines (See Appendix A to this Zoning Code).

2) Garage/Driveway Configurations. See Section 3 of the Residential Design Guidelines.

a) Driveways shall be a minimum of twenty-five (25) feet in length as measured from the garage door to the back of sidewalk, notwithstanding the location of the front property line.

b) The interior of two-car garages shall be a minimum of eighteen (18) feet wide by nineteen (19) feet deep, and the interior of three-car garages shall be a minimum of twenty-seven (27) feet wide by nineteen (19) feet deep, as measured from the interior of the walls. Space dedicated for opening of residential doors or placement of household appliances shall not encroach into the required interior measurements.

c) For a three-car garage with tandem parking, the interior shall be a minimum nineteen

(19) feet wide with a minimum nineteen (19) foot depth for one space and thirty-eight (38) foot depth for the tandem spaces. Space dedicated for opening of residential doors or placement of household appliances shall not encroach into the required interior measurements.

3) Garage Conversions. The conversion of a garage to living space or other residential use is allowed if:

a) Off-street parking requirements of this title are satisfied; see Section 9.1.1402;

b) The existing garage door is removed and replaced with walls, windows, doors and other suitable materials and the converted space is architecturally compatible in color, material and style with the existing structure; and

c) The curb is replaced, the driveway is removed and landscaping is done so that the converted space no longer resembles a garage. However, this requirement shall not result in an insufficiency of off-street parking.

4) Fencing. Residential fencing regulations shall comply with Section 9.1.1110.

5) Garage/Yard Sales. Garage/yard sales are permitted with the following limitations:

a) Three sales per calendar year at the same address;

b) Not to exceed three calendar days per event; and

c) Operating during daylight hours only.

(Sec. 3, Ordinance No. 07-17, adopted May 23, 2017; Sec. 2(B), Ordinance No. 02-16, adopted January 12, 2016; Sec. 2(A), Ordinance No. 01-16, adopted January 12, 2016; Sec. 3, Ordinance No. 08-15, adopted July 14, 2015; Sec. 1, Ordinance No. 08-14, adopted July 8, 2014; Sec. 2, Ordinance No. 06-12, adopted June 26, 2012; Sec. 1, Ordinance No. 06-11, adopted April 26, 2011; Secs. 2 and 3, Ordinance No. 14-10, adopted September 14, 2010)

9.1.406 Multiple Family Residential Districts (M-9; M-12; M-17).

a. Purpose and Intent. The purpose of the Multiple Family Residential District is to allow a designated area for multiple family residential district development designed to provide as much compatibility as possible with nearby single-family residential zoning. The City of Oakley Multifamily Residential Design Guidelines (pending 12/2005) should be referred to as they contain additional information regarding mandatory and suggestive guidelines for multiple family residentially zoned areas.

b. Permitted Uses. Uses permitted in the M-9, M-12, and M-17 districts shall be as follows:

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

2. Accessory dwelling unit per Section 9.1.1102;

3. Duplex;

4. Multiple-family buildings, but not including motels or hotels;

5. Motor court and greenway cluster housing (small lot detached housing with garages accessed off a motor court or alley);

6. Home-based businesses, per Section 9.1.1120;

7. Residential care facilities serving six or fewer persons;

8. Supportive housing;

9. Transitional housing.

c. Uses Requiring a Conditional Use Permit. In the M-9, M-12, and M-17 districts, the following uses are permitted on the issuance of a conditional use permit:

1. Hospitals, eleemosynary and philanthropic institutions, convalescent homes, and boarding homes;

2. Assembly uses;

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. Day care centers;

5. Public, parochial, and private schools, including nursery schools;

6. Publicly owned buildings and structures, except as provided in Chapters 1, 2, and 9;

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

8. Residential care facilities serving seven or more persons;

9. Transitional shelters and homeless shelters consistent with Section 65008 of the Government Code.

d. Uses Requiring a Temporary Use Permit.

None

e. Lot Requirements.

1. Area, Depth, and Width. No building or other structure permitted in the M-9, M-12, and M-17 districts shall be erected or placed on a lot containing less than the following land area:

Minimum Lot Requirements	Detached Single Family Dwelling	Duplex	Multiple Family Building
4,000	8,000	10,000	
N/A	N/A	N/A	
N/A	N/A	N/A	

2. Coverage and unit density. No building or structure permitted in the multiple family districts shall cover more than the lot area percentages listed in the following table.

	M-9	M-12	M-17
Maximum Coverage of Lot Area Allowed	40 %	40 %	40 %
Maximum Unit Density	9 per gross acre	12 per gross acre	16.7 per gross acre

f. Yard Requirements.

Minimum Yard Requirements (in feet)	Detached Single Family Dwelling	Duplex	Multiple Family Project Site	Multiple Family Individual Unit
Front Yard	15	20	25	10
Rear Yard	15	20	20	10
Aggregate Width of Side Yard	10	20	20	N/A

i.) Accessory uses in rear yards. An accessory building or accessory use may occupy not more than thirty percent (30%) of a required rear yard;

ii.) Rear yard abutting on a side yard. In all multiple family residential districts, there shall be a rear yard of not less than five feet (5') wherever the rear yard of a lot or parcel of land abuts

on a side yard; and

iii.) Exception. Development pursuant to any multiple family residential district site plan approved prior to adopting this Ordinance, shall be governed by the yard requirements applicable when the site plan was approved and shall not be subject to the requirements of this subsection.

g. Building Height.

Building Height Requirements (in feet)	Multiple Family Residential (M-9; M-12; M-17)
Maximum Building Height	No building permitted in this district shall exceed thirty-six feet (36') in height, or three stories.
Special Height Requirements and Exceptions	See Section 9.1.1126

h. Other Regulations.

i.) All new development shall be consistent with the City of Oakley Multifamily Residential Design Guidelines (pending 12/2005).

ii.) Open area requirements. Twenty-five percent (25%) of the area described by the development plan submitted pursuant to subsection 4-A-3.7C shall not be occupied by buildings, structures, or pavement, but shall be landscaped. Twenty-five percent (25%) (open area) shall be planted and maintained with growing plants.

iii.) Building relationship requirements. Each building or structure shall be located at least ten feet (10') from other buildings or structures, except that garages and covered walkways between buildings or structures may be permitted within this ten-foot (10') distance. A covered walkway shall not be more than ten feet (10') wide and 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.

iv.) Refuse and recycling. An area adequate in size and appropriately screened shall be permitted for refuse and recycling containers;

(Sec. 2(A), Ordinance No. 01-17, adopted February 14, 2017; Sec. 2(C), Ordinance No. 02-16, adopted January 12, 2016; Sec. 2(B), Ordinance No. 01-16, adopted January 12, 2016)

9.1.408 Mobile Home Residential District (MH).

a. Purpose and Intent. The purpose of the MH District is to accommodate mobile home parks as

a form of affordable and accessible housing. These regulations are applicable to mobile homes in an established mobile home park.

b. Permitted Uses. Uses permitted in the MH district shall be as follows:

1. Mobile homes located within approved mobile home parks;

2. Mobile homes shall be permitted to be used as management offices at approved mobile home parks;

3. Home based businesses;

4. Only those structures and accessory buildings permitted by the rules and regulations of the State Department of Housing and Community Development shall be permitted in a mobile home park and shall be located as therein provided.

c. Uses Requiring a Conditional Use Permit. In the MH district, the following uses are permitted on the issuance of a conditional use permit:

1. Mobile home parks.

i. Enforcement. The enforcement agency is the State Department of Housing and Community Development, Division of Building and Housing Standards. Prior to any construction on a mobile home park, plans and specifications shall be submitted and approved by the enforcement agency.

d. Uses Requiring a Temporary Use Permit.

None

e. Lot Requirements. Area, Width, and Depth. All mobile home parks shall have clearly designated sites for each mobile home with the following minimum requirements.

Minimum Lot Requirements	**Mobile Home Sites**
Lot Area (in square feet)[2]	2500
Lot Width	50
Lot Depth	50
Notes	
1. All mobile home sites shall be permanently and conspicuously numbered.	
2. The Planning Commission may require minimum mobile home sites greater than 2,500 square feet where	

mobile homes larger than 720 square feet are to be accommodated. At no time shall a mobile home, including all appurtenant structures such as attached awnings, cabanas, ramadas and storage buildings occupy more than 75 percent of the mobile home site.

f. Yard Requirements.

Minimum Yard Requirements (in feet)	**Mobile Home Parks**[1]	**Mobile Home Sites**
Front Yard	20	10
Rear Yard	10	10
Aggregate Width of Side Yard[2]	10	5
Width of One Side Yard	N/A	N/A
Notes		
1. Parks. Each required mobile home park yard shall be landscaped and maintained. Landscaping plans for common areas shall accompany the application for conditional use permit. The Planning Commission may require additional landscaping and additional fences or walls where necessary to ensure privacy, protect adjoining property, insulate against noise or glare or screen unsightliness.		
2. Mobile home parks are required to provide a side yard of 10 feet in street-adjacent areas.		

g. Building Height.

Building Height Requirements (in feet)	**Mobile Home Residential**
Maximum Building Height	Mobile home parks shall have a maximum building height of 30 feet.
	Mobile home sites shall have a maximum building height of 30 feet for primary residences.
Maximum Accessory	Mobile home parks shall have a

Building Height:	maximum building height of 15 feet for accessory structures.
	Mobile home sites shall have a maximum building height of 15 feet for accessory structures.
Special Height Requirements and Exceptions	See Section 9.1.1126

h. Other Regulations.

i. Not more than one sign shall be erected at any entrance to the park. Signs shall not exceed fifty square feet for all readable surfaces, nor exceed ten feet in height. Sign designs shall be submitted with the application for a conditional use permit.

ii. Mobile Home Park Density; Minimum Area Required. A Mobile home park shall have a minimum area of 5 or more acres with a maximum of 7 Mobile home sites permitted per acre within a mobile home park.

iii. Mobile Home Park Lighting. Off-street lighting shall be installed as in a residential subdivision and shall be approved by the City Engineer.

iv. Mobile Home Park Fire Hydrants. Fire hydrants and other fire protection shall be provided in the park as required by the East Contra Costa Fire Protection District or the provider of fire protection services within the City in conformance with existing City ordinances or Section 5622, Article 6, Title 25 of the California Administrative Code, whichever is more restrictive.

v. Mobile Home Park Recreation Areas. Recreation areas are required and shall conform to the following regulations:

1. In all parks, there shall be at least one or more outdoor recreation areas easily accessible to all park residents and available for year-around recreational use.

2. A minimum of four hundred (400) square feet of park recreation area shall be provided per mobile home site in the mobile home park.

3. Recreation areas shall be centrally located and free of traffic hazards.

vi. Mobile Home Park Perimeter Fence. A six-foot high masonry perimeter wall shall be established and maintained. Wood fencing is not permitted. This fence shall enclose the entire mobile home park (excluding access points) and shall meet all setback requirements as described in the Oakley Fence Ordinance No. 04-04.

vii. Mobile Home Park Utilities. All utilities shall be underground except at those points where connections are made to mobile homes.

viii. Mobile Home Park Amenities.

1. Each mobile home park shall have a laundry building for clothes washing and drying.

2. The park owner shall be responsible for collection and disposal of all trash and garbage. Provisions for garbage collection containers shall be shown on the site plan. Arrangements shall be made with the franchise holder for the City's garbage and trash collection before the enforcement agency approves the park for occupancy.

a.) Common outdoor garbage collection areas shall be enclosed within a solid six foot high masonry fence and shall be located so as not to cause a visual nuisance or traffic hazard.

ix. Mobile Home Park; Mobile Home Renting. Renting of mobile home in a Mobile home park is prohibited unless the mobile home bears the insignia of the State Division of Building and Housing Standards and is licensed by the Division for this purpose.

x. Mobile Home Parks and Mobile Homes; Regulation. The regulations set forth in this chapter shall be considered supplementary to the rules and regulations of the State Department of Housing and Community Development (Title 25, California Administrative Code, Chapter 5, "Mobilehome Parks Special Occupancy, Trailer Parks and Campgrounds").

xi. Prior to any construction on a mobile home park, plans and specifications shall be submitted and approved by the State Department of Housing and Community Development.

xii. Mobile Home Park; Off-Street Parking Requirements. (See Parking & Circulation, Section 9.1.1402 of this Code. or Article 14 of this chapter).

9.1.410 Affordable Housing Overlay District (AHO).

a. Purpose and Intent. The Affordable Housing Overlay (AHO) District serves to implement the housing element goal of providing new housing and addressing affordable housing needs within the City of Oakley. The AHO applies only to areas zoned Multiple Family Residential (M-9, M-12, M-17) and where an applicant has applied for and the City Council has approved a density bonus in accordance with Section 9.1.412 to meet the City Regional Housing Needs Assessment. It allows housing densities that exceed the maximum units per acre otherwise allowed in a zoning district, if a development meets the State density bonus criteria, as implemented, located in Section 9.1.412. Specifically the base density used to calculate the density bonus is twenty-four (24) dwelling units per acre. The AHO also modifies the Multiple Family Residential development standards to complement higher density housing projects. All developments within the AHO shall be consistent

with the City of Oakley Residential Design Guidelines and Multifamily Residential Design Guidelines (pending).

b. Affordability Requirements.

1) Development within the AHO District shall include housing units in the following categories and shall remain at those affordability levels for a minimum of thirty (30) years:

a) Very low income household: any household with an income level less than equal to fifty percent (50%) of the Contra Costa County median income as determined by the California Department of Housing and Community Development (HCD) and/or the Federal Department of Housing and Urban Development (HUD);

b) Low income household: any household with an income level between fifty percent (50%) and eighty percent (80%) of the Contra Costa County median income as determined by HCD or HUD.

2) If a development has both affordable and market rate units, then the affordable units shall be constructed at a rate consistent with the construction of market rate units and shall be mixed throughout the development. Project phasing must be done in a manner that is proportionate to the overall mix of affordability levels.

3) Prior to the approval of the rezoning or the issuance of a building permit, whichever is earlier, the applicant shall execute an agreement with the City of Oakley and any other documents necessary to ensure the continued affordability of the affordable units for the thirty (30) year minimum time frame in a form acceptable to the City Council.

c. Development Standards.

1) Where an applicant or developer elects to apply to utilize the AHO District over the underlying zoning, the development standards listed in Table 1 of this section, where applicable, shall apply. These development standards shall apply to projects requiring administrative approval and for those requiring a conditional use permit approval. Where conditional use permit approval is required, Section 9.1.1602 shall apply in addition to this section. Where conditional use permit approval is required, the development standards may be modified if deemed appropriate by the City Council. In addition, the proposed development shall comply with the remaining provisions of this chapter, including, but not limited to, the site density requirements set forth in subsection (d) of this section and design criteria set forth in subsection (e) of this section.

2) Table 1 sets forth development standards for multifamily development, which for the purposes of this section is defined as any residential development with three or more units on a single lot, within the Affordable Housing Overlay District.

Table 1: Development Standards for Multifamily Construction within the Affordable Housing Overlay (AHO) District	
Subject	**Standard**
Base Density	24 dwelling units per acre
Density Bonus	Per State Law up to 35%, or 32.4 dwelling units per acre
Building Site Coverage (combined maximum)	40%
Front Setback (minimum)	15 feet for two stories, 20 feet for three or more stories
Rear Setback (minimum)[2]	15 feet for two stories, 20 feet for three or more stories
Side Setback[2]	8 feet for two stories, 12 feet for three or more stories
Distance Between Buildings (minimum)	20 feet for two stories, 25 feet for three or more stories
Height Limit (maximum)	42 feet
Wall	A minimum six-foot-high solid masonry/block wall shall be required around the perimeter of all housing developments
Parking Requirements (minimum)	One Bedroom: one on-site parking space[1]
	Two – Three Bedrooms: one and one-half on-site parking spaces[1]
	Four or More Bedrooms: two and one-half on-site spaces (Government Code Section 65915(p))[1]
[1] If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this section, a subdivision may provide on-site parking through tandem parking or uncovered	

parking, but not through on-street parking. [2] 10 feet for any structure (not a dwelling unit) up to 15 feet in height.

d. Development Incentives. The City shall provide a density bonus and additional incentive(s) for qualified housing developments upon the written request of a developer, unless the City makes the written findings set forth in Government Code Section 65915(d)(1).

1) For qualifying projects, the City will allow exceptions in the development standards set forth in subsection (c) of this section for projects within the AHO District to allow more flexibility in design and development by right with no further discretionary review, and to expedite project approval.

2) The City will provide other funding or incentives to qualifying affordable housing projects, to meet the City RHNA allocation, such as providing financial assistance or land write-downs when feasible, providing expedited processing, identifying grant and funding opportunities and providing support to developers in seeking funding.

3) The need for incentives will vary for different housing developments. Therefore, the allocation of additional incentives shall be determined on a case-by-case basis. The additional incentives may include, but are not limited to, any of the following:

a) A reduction of site development standards or a modification of zoning code or architectural design requirements which exceed the minimum applicable building standards;

b) Allow mixed use development (commercial and residential) so long as it does not conflict with the land use designations in the General Plan land uses;

c) Other regulatory incentives or concessions proposed by the developer or the City which result in identifiable cost reductions or avoidance;

d) Waived, reduced, or deferred planning, plan check or construction permit fees;

e) The City may offer an equivalent financial incentive in lieu of granting a density bonus and an additional incentive(s). The value of the equivalent financial incentive shall equal at least the land cost per dwelling unit savings that would result from a density bonus and must contribute significantly to the economic feasibility of providing the target units pursuant to this chapter.

e. Design Criteria. The following design guidelines shall be applicable to all parcels within the AHO District. All proposed projects should be consistent with the City of Oakley Residential Design Guidelines and Multifamily Residential Design Guidelines (pending). The design guidelines will be

enforced through review and approval by the Community Development Director (CDD), or his/her designee, in case of an administrative-level approval, or by the City Council in the event a conditional use permit is required.

1) Buildings shall be designed to frame views of the hills, vineyards and other landscape features;

2) Natural landscape features such as creeks, wetlands and heritage trees shall be incorporated into the site design. All development shall be subject to Chapter 4.31, and Sections 9.1.1108, 9.1.1110 and 9.1.1112;

3) Development shall be clustered on each site so as to minimize development footprints, preserve undeveloped land, and avoid areas with natural and visual resources;

4) Building materials and colors should promote harmony, as well as interest in the neighborhood. Architectural style should utilize a limited palette of compatible colors, avoiding excessive different materials and colors that detract more than enhance the overall appearance;

5) Compatible color schemes should be used on adjacent buildings and structures;

6) Roof forms, materials, doors, windows and other architectural features or historic or traditional houses near the project shall be referenced in the design of the new development;

7) A detailed landscaping plan, including planting details, shall be submitted for review and approval prior to the issuance of building permits. The plan shall indicate the names and locations of all plant materials to be used, along with the method of maintenance. Plant materials shall be purchased locally when practical. Drought-tolerant plants are encouraged, when feasible. The project shall comply with the City of Oakley Water Efficient Landscape Ordinance and all Stormwater C-3 requirements;

8) The design of fences and screening shall be consistent with Sections 9.1.1108, 9.1.1110 and 9.1.1112;

9) All exterior lighting, including landscape lighting, shall be shielded and directed downward and shall be located as low to the ground as possible. Low-level lighting shall be utilized in parking areas at multifamily sites rather than high-intensity light standards;

10) All new housing units shall be designed so as to minimize their visual impacts. Visual impacts shall be minimized through landscaping, grading, berms, appropriately designed fences and other screening devices;

11) The use of shared driveways and alleyways with detached garages may be utilized;

12) Play spaces for children shall be secure and visible;

13) Multifamily projects shall follow the guidelines as described herein and where appropriate the guidelines in the Residential Design Guidelines and Multifamily Residential Design Guidelines (pending);

14) Architectural design concepts shall provide for a transition in scale between multifamily and any neighboring single-family residential development. Where adjacent to existing detached single-family development, the outermost portions of the multifamily buildings shall be limited to two stories within fifty (50) feet of the common boundary and to three stories from fifty (50) feet to seventy-five (75) feet of the common boundary. Beyond the seventy-five (75) foot distance, structures up to forty-two (42) feet high (and portions thereof) are permitted. The setbacks in Table 1 above require a staggered setback for third story and above to reduce the overall bulk and scale of larger projects adjacent to single-family residential developments;

15) Multifamily and mixed use projects shall be designed to reduce the perceived mass, scale, and form of the overall development through use of varying roof heights, setbacks, and wall planes. This shall include the use of:

a) Recessed facades and articulations in the building mass;

b) Varied roof heights, forms, masses, shapes, and/or materials to create variations between individual buildings;

c) Staggered and jogged placement of individual units (e.g., the units should not be aligned along a single plane that results in a large "wall" on any single side of the building); and

d) A variety of building orientations;

16) The perceived architectural scale of multifamily buildings of three or more stories shall be reduced through the proper use of window patterns, roof overhangs, awnings, moldings, fixtures, the use of darker or subdued colors contrasting with lighter colors, upper story setbacks, building and roof articulation, and other details that vary the exterior of the building and result in a staggered or scaled appearance;

17) Trash enclosures (solid waste and recycling), storage, and other accessory elements shall be designed as integral parts of the architecture;

18) Parking lots shall be screened by shade trees, landscaping or buildings. Parking shall be unobtrusive and not disrupt the quality of open spaces and pedestrian environments. Access to the property and circulation systems shall be safe and convenient for pedestrians, cyclists and vehicles;

19) Multifamily developments shall provide both common and private open spaces;

20) Multifamily projects shall provide common spaces that are physically defined and socially integrated into the site plan as a gathering place;

21) New projects will be required to provide, as part of the common space, the installation of a play structure and necessary safety equipment.

f. Approval Process. Administrative-level approval shall be given to projects meeting the appropriate affordability requirements identified in subsection (b) of this section, development standards set forth in subsection (c) of this section, and all other applicable sections of this chapter. For projects that require a subdivision map or a conditional use permit, the developer shall submit an application and all required fees to the Planning Department.

g. Utilities. Except as otherwise provided, no permits to develop housing in the AHO District shall be issued without evidence of adequate sewer and water service to serve the proposed development, as evidenced by a letter from the sewer and water service providers.

(Sec. 2, Ordinance No. 15-16, adopted July 12, 2016; Sec. 2, Ordinance No. 12-10, adopted September 14, 2010)

9.1.412 Residential Density Bonus and Incentives.

a. Purpose and Intent. This chapter is intended to provide incentives for the production of housing for lower income housing units or the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low, or moderate income households or qualified residents in accordance with Sections 65915 and 65917 of the California Government Code. In enacting this chapter, it is the intent of the City to facilitate the development of affordable housing and to implement the goals, objectives, and policies of the *City of Oakley Housing Element*. This section shall apply to all parcels that allow for single- or multi-family residential developments.

b. Definitions. Whenever the following terms are used in this chapter, they shall have the meanings established by this section:

1) "Additional Incentives" shall mean regulatory concessions as specified in California Government Code Section 65915 to include, but not limited to, the reduction of site development standards or zoning code requirements, direct financial assistance, approval of mixed use zoning in conjunction with the housing development, or any other regulatory incentive which would result in identifiable cost avoidance or reductions that are offered in addition to a density bonus;

2) "Affordable Rent" shall mean monthly housing expenses, including a reasonable allowance for utilities, for rental target units reserved for very low or lower income households,

not exceeding the following calculations:

a) Very Low Income: fifty percent (50%) of the area median income for Contra Costa County, adjusted for household size, multiplied by thirty percent (30%) and divided by twelve (12);

b) Lower Income: sixty percent (60%) of the area median income for Contra Costa County, adjusted for household size, multiplied by thirty percent (30%) and divided by twelve (12);

3) "Affordable Sales Price" shall mean a sales price at which lower or very low income households can qualify for the purchase of target units, calculated on the basis of underwriting standards of mortgage financing available for the development;

4) "Child Care Facility" means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school-age child care centers;

5) "Density Bonus" shall mean a minimum density increase of at least twenty percent (20%) for most developments and five percent for condominiums and planned developments or as otherwise provided in Government Code Section 65915 over the maximum residential density;

6) "Density Bonus Housing Agreement" shall mean a legally binding agreement between developer and the City of Oakley to ensure that the requirements of this chapter are satisfied. The agreement, among other things, shall establish: the number of target units, their size, location, terms and conditions of affordability, and production schedule. A detailed list of how the target units are distributed between the extremely low, very low, low, and moderate income categories shall also be provided;

7) "Density Bonus Units" shall mean those residential units granted pursuant to the provisions of this chapter and Government Code Section 65915 which exceed the otherwise maximum residential density for the development site;

8) "Development Standard" shall mean a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an on-site open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation;

9) "Equivalent Financial Incentive" shall mean a monetary contribution, based upon a land cost per dwelling unit value, equal to one of the following:

a) A density bonus and an additional incentive(s); or

b) A density bonus, where an additional incentive(s) is not requested or is determined to be unnecessary;

10) "Housing Cost" shall mean the sum of actual or projected monthly payments for all of the following associated with for-sale target units: principal and interest on a mortgage loan, including any loan insurance fees, property taxes and assessments, fire and casualty insurance, property maintenance and repairs, homeowner association fees, and a reasonable allowance for utilities;

11) "Housing Development," as used in this section, means a development project for five or more residential units. For the purposes of this section, "housing development" also includes a subdivision or a planned unit development or condominium project as defined in Section 1351 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multi-family dwelling, as defined in Government Code Section 65863.4(d), where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels.[1] The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located;

12) "Lower Income Household" shall mean households whose income does not exceed the lower 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;

13) "Maximum Residential Density" shall mean the maximum number of residential units permitted under the zoning ordinance at the time of application, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the project at the time of application. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the Land Use Element of the General Plan, the General Plan density shall prevail;

14) "Moderate Income Household" shall mean households whose income ranges between eighty percent (80%) and one hundred twenty percent (120%) of the 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;

15) "Target Unit" shall mean a dwelling unit within a housing development which will be

reserved for sale or rent to, and affordable to, very low or lower income households. For the purposes of this zoning ordinance, the definitions of "Target Unit" and "Non-restricted Unit" shall be considered the same;

16) "Very Low Income Household" shall mean households 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 Section 50105 of the California Health and Safety Code.

c. Development Incentives. The need for incentives will vary for different housing developments. Therefore, the allocation of additional incentives shall be determined on a case-by-case basis. The additional incentives may include, but are not limited to, any of the following:

1) A reduction of site development standards or a modification of zoning code or architectural design requirements which exceed the minimum applicable building standards;

2) Allow mixed use development so long as it does not conflict with the land use designations in the General Plan land uses;

3) Other regulatory incentives or concessions proposed by the developer or the City which result in identifiable cost reductions or avoidance;

4) Waived, reduced, or deferred planning, plan check or construction permit fees;

5) The City may offer an equivalent financial incentive in lieu of granting a density bonus and an additional incentive(s). The value of the equivalent financial incentive shall equal at least the land cost per dwelling unit savings that would result from a density bonus and must contribute significantly to the economic feasibility of providing the target units pursuant to this chapter.

d. Implementation.

1) The City shall grant one density bonus, the amount of which shall be as specified in subsection (d)(2) of this section, and incentives or concessions, as specified in subsection (d)(5) of this section, when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section:

a) At least ten percent (10%) of the total units of the housing development as target units affordable to lower income households, as defined in Section 50779.5 of the Health and Safety Code; or

b) At least five percent of the total units of the housing development as target units affordable to very low income households, as defined in Section 50105 of the Health and

Safety Code; or

c) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or mobile home park that limits residency; or

d) At least ten percent (10%) of the total dwelling units in a common interest development as defined in Section 1351 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code; provided, that all units in the development are offered to the public for purchase; or

e) As otherwise specified by Government Code Section 65915.

2) In determining the minimum number of density bonus units to be granted pursuant to this section, the minimum residential density for the site shall be multiplied by twenty percent (20%). As per Government Code Section 65915, for each one percent increase above ten percent (10%) in the percentage of units affordable to low income households, the density bonus shall be increased by one and one-half percent up to a maximum of thirty-five percent (35%). For each one percent increase above five percent in the percentage of units affordable to very low income households, the density bonus shall be increased by two and one-half percent up to a maximum of thirty-five percent (35%). When calculating the number of permitted density bonus units, any fractions of units shall be rounded to the next larger integer. The density bonus shall apply to housing developments consisting of five or more dwelling units;

3) Land Donations. When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the City in accordance with this section, the applicant shall be entitled to a fifteen percent (15%) increase above the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the General Plan for the entire housing development. As per Government Code Section 65915, for each one percent increase above ten percent (10%) in the percentage of units affordable to very low income households, the density bonus shall be increased by one percent up to a maximum of thirty-five percent (35%). The increase shall be in addition to any increase in density granted pursuant to subsection (d)(1) of this section, up to a maximum combined mandated density increase of thirty-five percent (35%), if an applicant seeks the increases required pursuant to both subsection (d)(1) of this section and this subsection (d)(3). All density calculations resulting in fractional units shall be rounded to the next whole number. Nothing in this section shall be construed to enlarge or diminish the city's authority to require an applicant to donate land as a condition of development.

a) An applicant shall be eligible for the increased density bonus described in this section if all of the following conditions are met:

(1) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(2) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(3) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than ten percent (10%) of the number of residential units of the proposed development.

(4) The transferred land is at least one acre in size or of sufficient size to permit development of at least forty (40) units, has the appropriate General Plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible. The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review if the design is not reviewed by the local government prior to the time of transfer.

(5) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with subsection (g)(2) of this section, which shall be recorded on the property at the time of the transfer.

(6) The land is transferred to the City or to a housing developer approved by the City. The City may require the applicant to identify and transfer the land to the developer.

(7) The transferred land shall be within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development.

(8) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

4) Child Care Facilities. When an applicant proposes to construct a housing development that conforms to the requirements of subsection (d)(1) of this section and includes a child care

facility that will be located on the premises of, as part of, or adjacent to the project, the City shall grant either of the following:

a) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

b) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

c) A housing development shall be eligible for the density bonus or concession described in this section if the City, as a condition of approving the housing development, requires all of the following occur:

(1) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subsection (g)(2) of this section;

(2) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subsection (d)(1) of this section.

(3) Notwithstanding any requirement of this subsection, the City shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

5) Based upon the percentage of units affordable to very low, low and moderate income households, as described below, the applicant will receive at least one incentive. The City may, however, grant multiple additional incentives to facilitate the inclusion of more target units than are required by this section;

a) One incentive or concession for projects that include at least ten percent (10%) of the total units for lower income households, at least five percent for very low income households, or at least ten percent (10%) for persons and families of moderate income in a condominium or planned development;

b) Two incentives or concessions for projects that include at least twenty percent (20%) of the total units for lower income households, at least ten percent (10%) for very low income households, or at least twenty percent (20%) for persons and families of moderate income in a condominium or planned development;

c) Three incentives or concessions for projects that include at least thirty percent (30%) of the total units for lower income households, at least fifteen percent (15%) for very low income households, or at least thirty percent (30%) for persons and families of moderate income in a condominium or planned development.

6) A density bonus housing agreement shall be made in condition of the discretionary planning permits (e.g., tract maps, parcel maps, site plans, planned development, conditional use permits, etc.) for all housing developments pursuant to this chapter. The agreement shall be recorded as a restriction on the parcel or parcels on which the target units will be constructed. The agreement shall be in a form acceptable to the City Council.

e. Development Standards.

1) Target units should be constructed concurrently with non-restricted units unless both the City and the developer/applicant agree within the density bonus housing agreement to an alternative schedule for development;

2) Target units shall remain restricted and affordable to the designated group for a period of thirty (30) years (or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program);

3) Target units should be dispersed within the housing development or as approved as part of a Master Plan. Where feasible, the number of bedrooms of the target units should be equivalent to the bedroom mix of non-target units of the housing development; except that the developer may include a higher proportion of target units with more bedrooms. The design and appearance of the target units shall be compatible with the design of the total housing development. The housing developments shall comply with all applicable development standards, except those which may be modified as allowed under this code;

4) A density bonus housing agreement shall be made a condition of the discretionary planning permits (e.g., tract maps, parcel maps, site plans, planned development, conditional use permits, etc.) for all housing developments pursuant to this chapter. The agreement shall be recorded as a restriction on the parcel or parcels on which the target units will be constructed.

f. Application Requirements and Review.

1) An application pursuant to this chapter shall be processed concurrently with any other application(s) required for housing development. Final approval or disapproval of an application shall be made by the City Council;

2) An applicant/developer proposing a housing development pursuant to this chapter may submit a preliminary application prior to the submittal of any formal request for approval of a

housing development;

3) Applicants are encouraged to schedule a pre-application conference with the Community Development Director (CDD), or designee, to discuss and identify potential application issues, including prospective additional incentives. A preliminary application shall include the following information:

a) A brief description of the proposed housing development, including the total number of units, target units, and density bonus units proposed;

b) The zoning and general plan designations and assessor's parcel number(s) of the project site;

c) A vicinity map and preliminary site plan, drawn to scale, including building footprints, driveway and parking layout;

d) If an additional incentive(s) is requested, the application should describe why the additional incentive(s) is necessary to provide the target units;

4) Within ninety (90) days of receipt of the preliminary application, the City shall provide to an applicant/developer a letter which identifies project issues of concern. The Community Development Director, or designee, shall inform the applicant/developer that the requested additional incentives shall be recommended for consideration with the proposed housing development, or that alternative or modified additional incentives shall be recommended for consideration in lieu of the requested incentives. If alternative or modified incentives are recommended by the Community Development Director, the recommendations shall establish how the alternative or modified incentives can be expected to have an equivalent affordability effect as the requested incentives;

5) The City must grant the requested incentive(s) and any additional requested incentive(s) unless the City Council makes at least one of the following written findings:

a) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subsection (e)(2) of this section.

b) The concession or incentive would have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households.

c) The requested concession or incentive would be contrary to state or federal law.

g. Density Bonus Housing Agreement.

1) Applicants/developers requesting a density bonus shall enter into a density bonus housing agreement with the City. Following execution of the agreement by all parties, the completed density bonus housing agreement, or memorandum thereof, shall be recorded and the conditions therefrom filed and recorded on the parcel or parcels designated for the construction of target units. The approval and recordation shall take place prior to final map approval, or, where a map is not being processed, prior to issuance of building permits for such parcels or units. The density bonus housing agreement shall be binding to all future owners and successors in interest;

2) The density bonus housing agreement shall include at least the following:

a) The total number of units approved for the housing development, including the number of target units;

b) A description of the household income group to be accommodated by the housing development and the standards for determining the corresponding affordable rent or affordable sales price and housing cost;

c) The location, unit sizes (square feet), and number of bedrooms of target units including a detailed list of how the target units are distributed between the extremely low, very low, low, and moderate income categories shall also be provided;

d) Tenure of use restrictions;

e) A schedule for completion and occupancy of target units;

f) A description of the additional incentive(s) or equivalent financial incentives being provided by the City;

g) A description of remedies for breach of the agreement by either party (the City may identify tenants or qualified purchasers as third party beneficiaries under the agreement);

h) Other provisions to ensure implementation and compliance with this chapter, and with Government Code Section 65915 or other applicable state law.

3) In addition to the requirements of subsection (g)(2) of this section, in the case of for-sale housing developments, the density bonus housing agreement shall provide for the following conditions governing the initial sale and use of target units during the applicable use restriction period:

a) Target units shall, upon initial sale, be sold to eligible very low or lower income households at an affordable sales price and housing cost or be used as senior citizen

housing as set forth in Government Code Section 65915;

b) Target units shall be initially owner-occupied by eligible very low or lower income households, or be used as senior citizen housing as set forth in Government Code Section 65915;

c) The initial purchaser of each target unit shall execute an instrument or agreement approved by the City restricting the sale of the target unit in accordance with this section during the applicable use restriction period. Such instrument or agreement shall be recorded against the parcel containing the target unit and shall contain such provisions as the City may require to ensure continued compliance with this section and the state density bonus law;

d) A copy of the recorded agreement shall be provided to the City to ensure compliance with this section and state density bonus law.

4) In addition to the requirements of subsection (g)(2) of this section, in the case of rental housing developments, the density bonus housing agreement shall provide for the following conditions governing the use of target units during the use restriction period:

a) The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining target units for qualified tenants;

b) Provisions requiring owners to verify tenant incomes and maintain books and records to demonstrate compliance with this chapter;

c) Provisions requiring owners to submit an annual report to the City, which includes the name, address, and income of each person occupying target units, and which identifies the bedroom size and monthly rent or cost of each target unit.

h. No Conflict with State Law.

1) Notwithstanding the regulations set forth in this chapter, if any section of this chapter conflicts with Government Code Section 65915 or other applicable state law, state law shall supersede this chapter.

(Sec. 2, Ordinance No. 11-10, adopted September 14, 2010)

Article 5 DISTRICT REGULATIONS: COMMERCIAL

9.1.502 Commercial Downtown District (CD)

a. Purpose and Intent. It is the purpose and intent of this section to provide the City of Oakley with a set of land uses and development standards for the continued physical and economic growth of the designated Commercial Downtown area.

Within Oakley, there is a significant architectural character in the buildings and development of the Downtown area. This section emphasizes preserving, maintaining and encouraging the significant aspects of that architectural environment.

The Commercial Downtown District is coterminous with the Commercial Downtown land use designation as illustrated in Figure 2-2, Land Use Diagram, of the Oakley 2020 General Plan and the "Oakley Redevelopment Project Area Planned-Unit Rezoning Project Limits" figure in the *Oakley Redevelopment Area Planned Unit District* (May 18, 1999). This section (9.1.502 of this section or Article 5 of this chapter) of the City of Oakley Zoning Ordinance hereby refers to the *Oakley Redevelopment Area Planned Unit District* for Commercial Downtown District guidelines, including a description of development guidelines and permitted uses, as well as the *City of Oakley Commercial and Industrial Design Guidelines*.

b. Permitted Uses. Please refer to the *Oakley Redevelopment Area Planned Unit District* document prepared by the City of Oakley for the downtown area permitted uses.

c. Uses Requiring a Conditional Use Permit. Please refer to the *Oakley Redevelopment Area Planned Unit District* document prepared by the City of Oakley for the downtown area for uses requiring a conditional use permit.

d. Uses Requiring a Temporary Use Permit.

None

e. Lot Requirements. Please refer to the *Oakley Redevelopment Area Planned Unit District* document prepared by the City of Oakley for the downtown area.

Minimum Lot Requirements	**Commercial Downtown District (CD)[1]**
Lot Area[2] (in square feet)	3,500
Lot Width	35 feet
Lot Depth	N/A
Notes	
1. Maximum Base FAR shall not exceed 1.0	

f. Yard Requirements. Please refer to the *Oakley Redevelopment Area Planned Unit District* document prepared by the City of Oakley for the downtown area.

g. Building Height. Please refer to the *Oakley Redevelopment Area Planned Unit District* document prepared by the City of Oakley for the downtown area.

Building Height Requirements (in feet)	Commercial Downtown (CD)
Maximum Building Height	35 feet
Maximum Accessory Building Height:	35 feet
Special Height Requirements and Exceptions	See Section 9.1.1126.

h. Other Regulations.

1. Please refer to the Oakley Redevelopment Area Planned Unit District document prepared by the City of Oakley for the downtown area;

2. All new commercial development shall be consistent with the Commercial and Industrial Design Guidelines (See Appendix C of this chapter).

9.1.504 Retail Business District (RB).

a. Purpose and Intent. The purpose of the RB District is to retain small-scale businesses and facilities that will provide a wide range of services to adjacent neighborhoods and to the community as a whole. The RB District is intended for small-scale developments that are adjacent to, or within the vicinity of, residential districts. Under the following regulations set forth in this section, all land within an RB retail business district may be used for the following uses:

b. Permitted Uses. The following uses, or uses determined to be similar by the Community Development Director, are permitted in the RB district:

1. Accounting and Financial Planning Offices (not including check-cashing business);

2. Antique Store;

3. Architectural And Engineering Offices;

4. Art And Art Supplies Store;

5. Artist's Studio;

6. Automobile Parts Store;

7. Bakery;

8. Banks and Financial Institutions;

9. Barber Or Beauty Shop;

10. Bicycle Shop;

11. Bookstore;
12. Camera Store;
13. Candy, Nut, And Confectionery Stores;
14. Card Shop;
15. Carpet/Drapery Store;
16. Catering Facility;
17. Chiropractic and Acupuncture Offices;
18. Clothing Store;
19. Coffee/Espresso Shop;
20. Consignment Store;
21. Convenience Market;
22. Copying Or Reproduction Facility;
23. Dance Studio;
24. Delicatessen;
25. Fabric Store;
26. Floral Shop;
27. Furniture Store;
28. Garden Supplies Store;
29. Gift Shop;
30. Insurance And Real Estate Offices;
31. Jewelry Store;
32. Locksmith Shop;
33. Mailing Or Facsimile Service;
34. Martial Arts Studio;

35. Medical And Dental Offices;
36. Music Studio;
37. Music Store;
38. Nail Salon;
39. Notary Public (with or without formal law offices);
40. Nursery (Horticulture);
41. Paint/wallpaper store;
42. Palm reading service;
43. Parking facilities, (ancillary to a principle use);
44. Pet Store;
45. Photography Studio;
46. Plumbing and heating store;
47. Professional Offices
48. Restaurant;
49. Shoe Repair Shop;
50. Sidewalk Cafe, (including outdoor dining);
51. Small-Appliance Store;
52. Sporting Goods Store;
53. Stationary Store;
54. Suntan Parlor;
55. Supermarket;
56. Tailor/seamstress Shop;
57. Toy Store;
58. Travel and Airline Agency Offices;

59. Video Sales and Rental Store.

c. Uses Requiring a Conditional Use Permit. In the RB district the following uses are permitted after the issuance of a conditional use permit:

1. Ambulance Service;

2. Animal Grooming Service;

3. Animal Hospital;

4. Appliance Service and repair shop. (Not ancillary to a primary use);

5. Automotive Repair;

6. Banquet Hall;

7. Car Rental Agency;

8. Child Care Center;

9. Drive-thru Restaurants and Services;

10. Dry Cleaner/laundry;

11. Educational facility including small (generally less than 2,000 square feet) designed to augment the learning process of elementary and secondary students;

12. Gasoline Service Station;

13. Health and Fitness Club;

14. Dog Kennel;

15. Hotels and Motels;

16. Liquor Store

17. Mixed Use (multifamily residential in conjunction with commercial)

18. Other retail businesses where the sales, demonstrations, displays, services and other activities, are conducted other than in an enclosed building abutting a residential district;

19. Parking Facilities, (as a principle use);

20. Recycling Small Collection Facility;

21. Recreational Facility;

22. Assembly uses with 100 seats or less.

d. Uses Requiring a Temporary Use Permit.

None.

e. Lot Requirements. Minimum Lot Area; Minimum Lot Width; Minimum Lot Depth.

Minimum Lot Requirements	**Retail Business District (RB)[1]**
Lot Area[2] (in square feet)	3,500
Lot Width	35 feet
Lot Depth	N/A
Notes	
1. Maximum Base FAR shall not exceed 1.0	
2. Maximum site coverage shall not exceed 40 percent.	

f. Yard Requirements.

Minimum Yard Requirements (in feet)	**Retail Business District (RB)**
Front Yard	10
Rear Yard	N/A
Rear Yard (when retail business uses are adjacent to residential districts)	20
Aggregate Width of Side Yard	N/A
Aggregate Width of Side Yard (when retail business uses are adjacent to residential districts)	10
Width of One Side	N/A

g. Building Height.

Building Height Requirements (in feet)	**Retail Business (RB)**
Maximum Building Height	35 feet

Maximum Accessory Building Height:	35 feet
Special Height Requirements and Exceptions	See Section 9.1.1126

h. Other Regulations

i. All new commercial development shall be consistent with the Commercial and Industrial Design Guidelines (See Appendix C of this chapter).

ii. Special District.

1. 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 subsections (h)(i)(2) through (6) of this section.

2. 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.

3. Conditional Use Permits. Conditional use permits for the modification of any of the details set forth on the enlarged detail map may be granted after application under Section 9.1.1602.

4. Lot Area. In special business districts, subsection (e) of this section, regulating lot area, shall not apply.

5. 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 conditional use permits to construct additional buildings on the site may be granted after application under Section 9.1.1602.

6. 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 conditional use permit for them.

9.1.506 General Commercial District (C).

a. Purpose and Intent. The purpose of the C District is to create and maintain major commercial centers accommodating a broad range of commercial uses (e.g., office, retail, and personal services) of community-wide or regional significance typically found adjacent to or along major

travel corridors, such as Main Street, O'Hara Avenue, Laurel Avenue and Empire Avenue. Typical uses will vary widely in size and purpose and include large-scale retail, regional-serving retail, performance of services, including repair facilities, offices, small wholesale stores or distributors, limited processing and packaging, the manufacture or treatment of goods from raw materials, large-scale grocery and convenience stores, professional offices, restaurants, laundry facilities, and other uses of similar character and impacts. Subject to all regulations set forth in this section, land within the C (General Commercial) District may be used as permitted in this section.

b. Permitted Uses. The following uses, or uses determined to be similar by the Community Development Director, are allowed in the C District:

1) Retail stores, including:

a) Auto parts;

b) Clothing;

c) Grocery;

d) Household goods;

e) Garden nursery;

f) Sporting goods; and

g) Other similar retail uses;

2) Retail sales in conjunction with wholesale activities;

3) Indoor recreation and health/fitness clubs;

4) Offices (medical, dental, professional);

5) Restaurants;

6) Hotels/motels;

7) Banks, financial institutions;

8) Studios, including dance studios, martial arts studios, and other class-oriented training facilities;

9) Assembly, public/private with less than one hundred (100) seats;

10) Automobile/boat/motorcycle sales with showroom only (new and used);

11) Bakery/deli, retail (including cafes and coffee shops);

12) Light manufacturing without heavy equipment (PS-1);

13) Equipment rental/sales (PS-1);

14) Copy and reproduction storefronts;

15) Veterinary hospitals;

16) Dry cleaner, drop off/pick up only (no onsite cleaning service); and

17) Uses permitted in the RB District.

c. Uses Requiring a Conditional Use Permit. In the C District, the following uses are permitted after the issuance of a conditional use permit:

1) Assembly, public/private with one hundred (100) or more seats;

2) Automobile/boat/motorcycle sales with outside inventory (new and used);

3) Bar, lounge, nightclub or restaurant with full bar;

4) College campus;

5) Community center – Public or private;

6) Golf course or range;

7) Gun, rifle range;

8) Helicopter pad – Emergency;

9) Hospitals;

10) Recreational vehicle or mobile home sales yard;

11) Recreation, outdoor;

12) Wine tasting rooms in conjunction with a retail use;

13) Boat and recreational vehicle outdoor storage when combined with retail storefronts; and

14) Uses requiring a conditional use permit in the RB District.

d. Accessory/Ancillary Uses. Uses that are permitted when accessory or ancillary to an approved use.

1) ATM machines when part of a main building with an established commercial use;

2) Recycling – Mobile center (PS-2);

3) Recycling – Reverse vending (PS-2);

4) Recycling – Small collection facility (PS-2); and

5) Temporary sales or construction trailer.

e. Uses Requiring a Temporary Use Permit. Temporary use permits in the C District are subject to the regulations set forth in Section 9.1.1606.

f. Lot Requirements.

Minimum Lot Requirements	**General Commercial District (C)[1]**
Lot Area (in square feet)	7,500
Lot Width	N/A
Lot Depth	N/A
Notes	
1. Maximum Base FAR shall not exceed 1.0	

g. Yard Requirements.

Minimum Yard Requirements (in feet)	**General Commercial District (C)**
Front and Corner Side Yards	See Commercial Guidelines V.B (Streetscape, Roads and Streets)
Rear Yard when adjacent to Residential	20
Side Yard when adjacent to Residential	20
Rear and Side Yards when adjacent to Commercial or Industrial	0

h. Building Height.

Building Height Requirements (in feet)	**General Commercial District (C)**
Maximum Building Height	35 feet
Maximum Accessory Building Height	35 feet

Special Height Requirements and Exceptions	See Section 9.1.1124

i. Other Regulations.

1) All new commercial development shall be consistent with the Oakley Commercial and Industrial Design Guidelines (See Appendix C of this chapter); and

2) All new commercial development shall be subject to Design Review (Section 9.1.1604).

j. Performance Standards. The following table describes the requirements for Permitted, Conditionally Permitted, and Accessory/Ancillary Uses that are subject to a Performance Standard as indicated by (PS "-") above.

Performance Standard Designation	Performance Standard Description
PS-1	Conditional Use Permit required for outdoor storage or gross floor area over 5,000 square feet.
PS-2	Screening of material sorting and storage areas from public view is required, otherwise use is not permitted.

(Sec. 2, Ordinance No. 14-09, adopted May 26, 2009)

9.1.508 Business Park High (BPH).

a. Purpose and Intent. The purpose of the BP District is to provide for establishment of high quality business office parks in a campus environment at key locations within the City of Oakley. No residential uses of any kind are permitted or conditionally permitted in the BPH district or BPL (Business Park Low) district.

b. Permitted Uses. The following uses, or uses determined to be similar by the Community Development Director, are permitted in the BPH District as primary uses:

1. Accessory uses, including but not limited to the following:

a. Sale of personal goods and services, when provided in the principal building, including but not limited to the following:

i. Flower, and news vending;

ii. Ticket outlets; and

b. Other services which are customary appurtenant uses.

2. Accounting Offices;

3. Addressing Services;

4. Administrative, executive, and professional offices, including similar professional occupations;

5. Catering Facilities;

6. Clubs, Lodges, And Fraternal Organizations;

7. Computing Services;

8. Copying Facility, (to include printing and related services);

9. Day Care, limited (= twelve 12 people w/care = 24 hours);

10. Delicatessen;

11. Dry Cleaner/laundry;

12. Employment Agencies;

13. Financial and Business Offices and Related Facilities;

14. Gift Shop;

15. Health and Recreation Facilities;

16. Locksmith Shop;

17. Notary Public;

18. Public Parking Facilities;

19. Public Utility and Service Uses;

20. Research laboratories (experimental and testing),

21. Restaurants without drive-thru facilities;

22. Sidewalk Cafe (with permanent outdoor seating area);

23. Stenographic Services;

24. Travel and Airline Agencies;

25. Veterinarian Office, provided that no office of a veterinarian shall include an animal

hospital or kennel; and

26. Warehousing, storage, and distribution facilities as accessory uses but not exceeding ten thousand (10,000) square feet per establishment or not more than sixty percent (60%) of gross floor area per establishment.

c. Uses Requiring a Conditional Use Permit. In the BPH district the following uses are permitted after the issuance of a conditional use permit:

1. Airport;

2. Ambulance Service;

3. Artist's Studio;

4. Assembly Uses;

5. Automobile Gasoline Service Station;

6. Communication facilities (see Section 9.1.202(b)(26));

7. Cultural Institution;

8. Helicopter Landing Facilities (emergency and non-emergency);

9. Hotels;

10. Other compatible uses as determined by the Planning Commission subject to the granting of a conditional use permit;

11. Parking Facilities, as a principle use;

12. Specialty Food Shops.

d. Uses Requiring a Temporary Use Permit. In the BPH district, the following uses are permitted on the issuance of a Temporary Use Permit in accordance with Section 9.1.1606:

1. Indoor or outdoor gatherings directly associated with permitted or conditional uses in the BPH district;

2. Indoor or outdoor business-related trade shows and gatherings of similar nature and purpose associated with permitted or conditional uses in the BPH district.

e. Lot Requirements. Minimum Lot Area; Minimum Lot Width; Minimum Lot Depth.

Minimum Lot Requirements[1]	**Business Park High (BPH)[2]**

Lot Area[3] (in square feet)	87,120
Lot Width	N/A
Lot Depth	N/A
Notes	
1. Special lot requirements and exceptions – see Chapter 5.	
2. Maximum Base FAR shall not exceed 2.0	
3. Maximum site coverage not to exceed 50 percent.	

f.) Yard Requirements. Accessory Uses in Rear Yards. An accessory building or accessory use may occupy not more than thirty percent (30%) of a required rear yard.

Minimum Yard Requirements (in feet)	Business Park High (BPH)
Front Yard	25
Rear Yard (required when business park uses are adjacent to residential districts, otherwise N/A)	20
Aggregate Width of Side Yard	10
Width of One Side	N/A

g.) Height Limit.

Building Height Requirements (in feet)	Business Park High (BPH)
Maximum Building Height	50 feet
Maximum Accessory Building Height:	50 feet
Special Height Requirements and Exceptions	See Section 9.1.1126

h.) Other Regulations. All new commercial and industrial development shall be consistent with the Commercial and Industrial Design Guidelines (See Appendix C of this chapter).

9.1.510 Business Park Low (BPl).

a. Purpose and Intent. The purpose of the BP District is to provide for establishment of high quality business office parks in a campus environment at key locations within the City of Oakley.

No residential uses of any kind are permitted or conditionally permitted in the BPL district.

b. Permitted Uses. The following uses, or uses determined to be similar by the Community Development Director, are permitted in the BPL District as primary uses:

1. All uses permitted in BPH district (Section 9.1.508(b)).

c. Uses Requiring a Conditional use permit. In the BPL district the following uses are permitted after the issuance of a conditional use permit:

1. All uses requiring a conditional use permit in BPH district (Section 9.1.508c).

d. Uses Requiring a Temporary Use Permit. In the BPL district, the following uses are permitted on the issuance of a Temporary Use Permit in accordance with Section 9.1.1606:

1. Indoor or outdoor gatherings directly associated with permitted or conditional uses in the BPH district;

2. Indoor or outdoor business-related trade shows and gatherings of similar nature and purpose associated with permitted or conditional uses in the BPH district.

e. Lot Requirements. Minimum Lot Area; Minimum Lot Width; Minimum Lot Depth.

Minimum Lot Requirements[1]	**Business Park Low (BPL)[2]**
Lot Area[3] (in square feet)	43,560
Lot Width	N/A
Lot Depth	N/A
Notes 1. Special lot requirements and exceptions – see Chapter 5. 2. Maximum Base FAR shall not exceed 1.0 3. Maximum site coverage not to exceed 50 percent.	

f. Yard Requirements. Accessory Uses in Rear Yards. An accessory building or accessory use may occupy not more than thirty percent (30%) of a required rear yard.

Minimum Yard Requirements (in feet)	**Business Park High (BPL)**
Front Yard	25
Rear Yard (required when	20

business park uses are adjacent to residential districts, otherwise N/A)	
Aggregate Width of Side Yard	10
Width of One Side	N/A

g. Building Height.

Building Height Requirements (in feet)	Business Park High (BPH)
Maximum Building Height	50 feet
Maximum Accessory Building Height:	50 feet
Special Height Requirements and Exceptions	See Section 9.1.1124.

h. Other Regulations. All new commercial and industrial development shall be consistent with the Commercial and Industrial Design Guidelines (See Appendix C of this chapter).

9.1.512 Commercial Recreation – Aquatic (CR-A).

a. Purpose and Intent. The purpose of the CR-A District is to provide designated areas for preservation of natural features, and to encourage marine-commercial and visitor-oriented uses in waterfront areas.

b. Permitted Uses. Uses permitted in the CR-A district shall be as follows:

1. Artists' studios and galleries;

2. Boat storage/yards. Indoor or outdoor storage of boats, including stack storage, which may include boat haul out, maintenance, and boat repair as an ancillary use;

3. Marinas;

4. Park and recreation facilities;

5. Retail marine sales;

6. Utilities, minor (Utility facilities that are necessary to support legally established uses and involve only minor structures such as electrical distribution lines, underground water and sewer lines);

c. Uses Requiring a Conditional Use Permit. In the CR-A district the following uses are permitted

after the issuance of a conditional use permit:

1. Boat charter, rental, and sales;

2. Boat storage/yards when including boat building or manufacturing;

3. Commercial filming (Commercial motion picture or video photography at the same location more than six days per quarter of a calendar year);

4. Commercial recreation and entertainment (This classification includes cinemas, theaters, sports stadiums and arenas, amusement parks, bowling alleys, billiard parlors, pool rooms, dance halls, ice/skating rinks, scale-model courses, tennis/racquetball courts, arcades or electronic games centers having three or more coin-operated game machines);

5. Eating and drinking establishments related to marina;

6. Hotels and motels;

7. Marine service stations (Establishments engaged in the retail sale of gasoline, diesel, and alternative fuels, lubricants, parts, and accessories for boats or ships);

8. Public safety facilities;

9. Utilities, major (Generating plants, electrical substations, above-ground electrical transmission lines, lone switching buildings, refuse collection, transfer recycling or disposal facilities, water reservoirs, flood control or drainage facilities, water or wastewater treatment plants, transportation or communications utilities, and similar facilities of public agencies or public utilities. A structure that may have a significant effect on surrounding uses shall be regulated under this classification);

10. Yacht club; and

11. Commercial waterfront master plan with a residential component (Residential component subject to the lot and yard requirements, building height and other regulations of multiple family residential districts (M-9, M-12 and M-17) (Sections 9.1.406(e) through (h)).

d. Uses Requiring a Temporary Use Permit. The following uses, or uses determined to be similar by the Community Development Director, are permitted in the CR-A District subject to the approval of a temporary use permit:

1. Animal shows (Exhibitions of domestic or large animals for a maximum of seven days);

2. Circuses and carnivals (Provision of games, rides, eating and drinking, facilities, live entertainment, animal exhibitions, or similar activities for a maximum of seven days. This classification excludes events conducted in a permanent entertainment facility);

3. Commercial filming, limited (Commercial motion picture or video photography at the same location six or fewer days per quarter of a calendar year);

4. Fairs and festivals (Provision of games, eating and drinking facilities, live entertainment, or similar activities not requiring the use of roofed structures and not exceeding 72 hours);

5. Outdoor storage and display (Outdoor storage and display of merchandise, materials, or equipment for a maximum period of seventy-two (72) hours per quarter of a calendar year);

6. Recreation and entertainment events (This classification includes sporting events and tournaments, contests and exhibitions, performing arts, and similar activities for a maximum of seven days. This classification excludes events conducted in a permanent entertainment facility); and

7. Trade fairs (Display and sale of goods or equipment related to a specific trade or industry for a maximum period of five days).

e. Lot Requirements. Minimum Lot Areas.

Minimum Lot Requirements	**Commercial Recreation – Aquatics (CR-A)[1]**
Lot Area (in square feet)	N/A – Regulated by setbacks
Lot Width	25
Lot Depth	N/A
Notes:	
1. Floor Area Ratio – No building shall exceed a FAR of 1.0	

f. Yard Requirements.

1. Minimum Building Setback. Buildings in the CR-A District shall not have required minimum building setbacks, except for the following instances:

Minimum Yard Requirements (in feet)	**Commercial Recreation – Aquatics (CRA)**
Front Yard	N/A
Rear Yard (abutting an R district)	5
Rear Yard (abutting an	10

alley)	
Aggregate Width of Side Yard (abutting an R District)	5
Width of One Side	N/A

2. Accessory Uses in Rear Yards. An accessory building or accessory use may occupy not more than thirty percent (30%) of a required rear yard.

g. Building Height.

Building Height Requirements (in feet)	**Commercial Recreation Aquatic (CR-A)**
Maximum Building Height	50 feet
Maximum Accessory Building Height:	N/A
Special Height Requirements and Exceptions	See Section 9.1.1126

h. Other Regulations.

i. All new commercial development shall be consistent with the Commercial and Industrial Design Guidelines (See Appendix C of this chapter) and is subject to Design Review approval.

ii. Fences, walls, hedges, uncovered decks, landings, patios, platforms, porches and terraces and similar structures not more than 6 feet in height, may be located within any required side yard to the rear of the front setback or within any required rear yard other than those abutting an alley. Fences, walls, hedges, and accessory structures shall be limited to 3 feet in height above natural grade in all required front yard setback areas;

iii. Dock and Marina Regulations. Dock and marina projects may be allowed in the CR-A district based on the following criteria, as determined appropriate by the Community Development Director:

1. Proposed locations should be along waterways having an adequate channel width as defined by the State Harbors and Navigation Code;

2. Adequate public vehicular access and parking must be provided;

3. Off-site improvements, such as required access roads, must be capable of

supporting the proposed development and subsequent use;

4. Adequate on-site sewage or public sewer disposal must be provided;

5. Adequate access for emergency response vehicles must be available;

6. Such uses should minimize the conflict with adjacent agricultural uses or natural resources;

7. Adequate potable water must be provided, as appropriate, for all recreational uses;

8. Encourage public access to the delta and shoreline in conjunction with new dock and marina projects. Such access may be achieved upon the subject property or through cooperative efforts with adjacent property owners.

(Sec. 2, Ordinance No. 20-10, adopted October 26, 2010; Sec. 2, Ordinance No. 08-09, adopted February 24, 2009)

9.1.514 Commercial Recreation – Non-Aquatic (CR-NA).

a. Purpose and Intent. The purpose of the CR-NA District is to provide designated areas for recreation-oriented uses and commercial activities, such as golf courses and horse stables, that are compatible with open space uses and uses specified in Section 9.1.512, Commercial Recreation – Aquatic (CR-A).

b. Permitted Uses. Uses permitted in the CR-NA district shall be as follows:

1. Day Care, Limited (Non-medical care and supervision of twelve or fewer persons on a less than 24-hour basis). This classification includes nursery schools, pre-schools, and day-care centers for children and adults;

2. Eating and Drinking Establishments – Accessory (Any establishment serving as an accessory use in a retail, office, or institutional building with a gross floor area of 5,000 square feet or more, provided the establishment has no separate entrance, the hours of operation correspond with those of the principal use and the total net public area of all such establishments within the building total to no more than 5 percent of the gross floor area, up to a maximum of 1,500 square feet);

3. Horse training, boarding and stabling facilities and horse riding;

4. Park and Recreation Facilities; and

5. Utilities, Minor (Utility facilities that are necessary to support legally established uses and involve only minor structures such as electrical distribution lines, underground water and sewer lines);

c. Uses Requiring a Conditional Use Permit. In the CR-NA district the following uses are permitted after the issuance of a conditional use permit:

1. Accessory structures and uses;

2. Clubs and lodges;

3. Commercial recreation and entertainment (This classification includes cinemas, theaters, sports stadiums and arenas, amusement parks, bowling alleys, billiard parlors, pool rooms, dance halls, ice/roller skating rinks, golf courses, driving ranges, miniature golf courses, scale-model courses, tennis/racquetball courts, arcades or electronic games centers having three or more coin-operated game machines);

4. Cultural Institutions;

5. Eating and drinking establishments related to primary use;

6. Golf-related Retail Sales;

7. Heliports;

8. Hotels, Motels, and Time-shares;

9. Public Safety Facilities;

10. RV Parks;

11. Utilities, major (Generating plants, electrical substations, above-ground electrical transmission lines, lone switching buildings, refuse collection, transfer recycling or disposal facilities, water reservoirs, flood control or drainage facilities, water or wastewater treatment plants, transportation or communications utilities, and similar facilities of public agencies or public utilities. A structure that may have a significant effect on surrounding uses shall be regulated under this classification).

d. Uses Requiring a Temporary Use Permit. The following uses, or uses determined to be similar by the Community Development Director, are permitted in the CR-NA District subject to the approval of a temporary use permit:

1. Animal Shows (Exhibitions of domestic or large animals for a maximum of seven days);

2. Assembly Uses;

3. Circuses and carnivals (Provision of games, rides, eating and drinking, facilities, live entertainment, animal exhibitions, or similar activities for a maximum of seven days. This classification excludes events conducted in a permanent entertainment facility);

4. Fairs and festivals (Provision of games, eating and drinking facilities, live entertainment, or similar activities not requiring the use of roofed structures and not exceeding 72 hours);

5. Outdoor storage and display (Outdoor storage and display of merchandise, materials, or equipment for a maximum period of seventy-two (72) hours per quarter of a calendar year);

6. Recreation and entertainment events (This classification includes sporting events and tournaments, contests and exhibitions, performing arts, and similar activities for a maximum of seven days. This classification excludes events conducted in a permanent entertainment facility); and

7. Trade fairs (Display and sale of goods or equipment related to a specific trade or industry for a maximum period of five days).

e. Lot Requirements. Minimum Lot Area; Minimum Lot Width; Minimum Lot Depth.

Minimum Lot Requirements	**Commercial Recreation – Non Aquatic (CR-NA)[1]**
Lot Area (in square feet)	N/A – Regulated by setbacks
Lot Width	25
Lot Depth	N/A
Notes:	
1. Floor Area Ratio – No building shall exceed a FAR of 1.0	

f. Yard Requirements.

1. Minimum Building Setback. Buildings in the CR-NA District shall not have required minimum building setbacks, except for the following instances:

Minimum Yard Requirements (in feet)	**Commercial Recreation – Non Aquatics (CR-NA)**
Front Yard	N/A
Rear Yard (abutting an R district)	5
Rear Yard (abutting an alley)	10
Aggregate Width of Side Yard (abutting an R District)	5

Width of One Side	N/A

2. Accessory Uses in Rear Yards. An accessory building or accessory use may occupy not more than thirty percent (30%) of a required rear yard.

g. Building Height.

Building Height Requirements (in feet)	**Commercial Recreation – Non-Aquatic (CR-NA)**
Maximum Building Height	50 feet
Maximum Accessory Building Height:	N/A
Special Height Requirements and Exceptions	See Section 9.1.1126

h. Other Regulations.

1. All commercial development within this zoning district must be consistent with the City of Oakley Commercial and Industrial Design Guidelines (See Appendix C of this chapter).

2. Fences, walls, hedges, uncovered decks, landings, patios, platforms, porches and terraces and similar structures not more than 6 feet in height, may be located within any required side yard to the rear of the front setback or within any required rear yard other than those abutting an alley. Fences, walls, hedges, and accessory structures shall be limited to 3 feet in height above natural grade in all required front yard setback areas.

Article 6 DISTRICT REGULATIONS: INDUSTRIAL

9.1.602 Light Industrial District (LI).

a. Purpose and Intent. The purpose of the LI District is to provide designated areas for limited manufacturing and other light industrial uses within the City of Oakley, which are compatible with business parks and adjacent residential areas.

b. Permitted Uses. Uses permitted in the L-I district shall be as follows:

1. Auto garage that includes body repair and painting;

2. Building Contractor's Yard;

3. Furniture Manufacturing;

4. 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, semi-finished or finished products;

5. Lumber Yard;

6. Pest Control Company;

7. Uses Permitted in Retail Business Districts;

8. Warehouse.

c. Uses Requiring a Conditional Use Permit. In the LI district, the following uses are permitted on the issuance of a conditional use permit:

1. Adult entertainment business shall be conditionally permitted in the Light Industrial zoning district only if location is in full compliance with distance restrictions established herein by Section 6-G-1.4.

2. Commercial Dog Kennel;

3. Industry, Marine-related;

4. Large-scale Boat Storage Facilities;

5. Mini-storage Facility;

6. Recycling – Large Facility;

7. Retail Sales, combined with wholesale facilities;

8. Sheet Metal Shop;

9. Solid Waste Landfill;

10. Solid Waste Transfer Station;

11. Transit-mix Plants;

12. Uses which emit dust, smoke, fumes, noise/vibration, 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; uses included within the meaning of this proviso include, but are not limited to, asphalt plants, food processing plants, wineries, breweries, and other similar uses;

13. Uses Permitted in Agricultural Limited District; and

14. Uses Permitted in General Commercial Districts.

d. Uses Requiring a Temporary Use Permit.

None

e. Lot Requirements.

Minimum Lot Requirements	**Light Industrial District (L1)[1]**
Lot Area[2] (in square feet)	7,500
Lot Width	N/A
Lot Depth	N/A
Notes:	
1. Maximum floor area ration (FAR) is 0.67.	
2. Maximum site coverage is 50 percent.	

f. Yard Requirements.

Minimum Yard Requirements (in feet)	**Light Industrial District (L1)**
Front Yard (From boundary line of any existing public road or highway.)	10 feet
Rear or Side Yard abutting residential district[1]	20 feet
Aggregate Width of Side Yard	10 feet
Width of One Side	N/A
Notes	
1. No rear yards are required, except where a lot backs up to a public street, in which case the required front setback and landscaping will be required on both frontages.	

g. Building Height. No building or structure or part of it shall be more than three (3) stories or fifty feet (50') high above the highest point of ground elevation on the lot on which the building is erected.

h. Other Regulations.

1. Industrial Development. All commercial development within this zoning district shall be consistent with the City of Oakley Commercial and Industrial Design Guidelines (See Appendix C of this chapter).

9.1.604 Utility Energy District (ue).

a. Purpose and Intent. The purpose of the UE District is to allow a designated area for uses involved in the clean production of electricity within the City of Oakley, which are compatible with adjacent business parks and light industrial areas. The UE zoning district is specifically for "clean energy" or light pollution-generating facilities; any potentially "dirty" or heavy pollution-generating facilities are not appropriate for, and are strictly prohibited from, the Utility Energy District.

b. Permitted Uses. Uses permitted in the UE district shall be as follows:

1. None.

c. Uses Requiring a Conditional Use Permit. In the UE district, the following uses are permitted on the issuance of a conditional use permit:

1. Gas-electric Power Plant (full scale);

2. Solar Collectors;

3. Wind Energy Conversion Systems (WECS).

d. Uses Requiring a Temporary Use Permit.

None

e. Lot Requirements.

Minimum Lot Requirements	**Utility Energy District (UE)[1]**
Lot Area (in square feet)	N/A
Lot Width	N/A
Lot Depth	N/A
Notes:	
1. Maximum floor area ration (FAR) is 0.4.	
2. Maximum site coverage is 30 percent.	

f. Yard Requirements.

Minimum Yard Requirements	**Utility Energy District (UE)**

(in feet)	Utility Energy District (UE)
Front Yard (From boundary line of any existing public road or highway.)	N/A
Rear Yard1	N/A
Aggregate Width of Side Yard	10
Width of One Side	N/A

g. Building Height. The maximum building height for the UE District shall be one hundred feet (100').

h. Other Regulations.

1. Architectural Design. All developments within the UE zoning district shall be consistent with the City of Oakley Commercial and Industrial Design Guidelines, and shall be constructed with aesthetically pleasing, quality materials similar to those found in "upscale" commercial developments.

2. Landscaping. All developments within the UE district shall provide adequate, and well-maintained, tree and hedge landscaping along required side yards.

3. Lighting. Off-street lighting shall be installed which will provide adequate light for the on-site use without creating inappropriate glare to adjacent business park or light industrial uses, and shall be approved by the Community Development Director.

Article 7 DISTRICT REGULATIONS: PUBLIC AND SEMI-PUBLIC

9.1.702 Public and Semi –Public (P)

a. Purpose and Intent. The purpose of the P District is to promote and encourage a suitable environment devoted to publicly owned government buildings and facilities, public community centers, libraries and museums, public educational facilities, public school districts facilities, public transit stations, public parking lots and structures, and other such uses directly or indirectly serving the general public.

b. Permitted Uses.

1. Primary Uses. The following uses, or uses determined to be similar by the Community Development Director, are permitted in the P District as primary uses:

a. Public Agency Facilities, including but not limited to fire stations and police stations;

b. Public Educational Facilities;

c. Public Parking Lots and Structures;

d. Public School Districts Facilities;

e. Public Transit Stations;

f. Public Utilities, including water treatment plants;

2. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the uses permitted in the P District:

i. Accessory Buildings and Uses;

ii. Cafeterias, concession stands and information kiosks located inside a public agency building;

iii. Public Agency Equipment and Storage Yards.

iv. Telecommunicater and/or alternative tower structures.

c. Uses Requiring a Conditional Use Permit. In the P district, the following uses are permitted on the issuance of a conditional use permit:

1. Cemeteries;

2. Concession stands located outside a public agency building;

3. Convalescent Facilities;

d. Uses Requiring a Temporary Use Permit.

None

e. Lot Requirements.

Minimum Lot Requirements[1]	**Public and Semi-Public (P)**
Lot Area (in square feet)	N/A
Lot Frontage	N/A
Lot Width	N/A
Lot Depth	N/A
Notes	

1. Maximum lot coverage is 90 percent.

f. Yard Requirements.

Minimum Yard Requirements[1](in feet)	**Public and Semi-Public (P)**
Front Yard	10
Rear Yard	10
Aggregate Width of Side Yard	5
Width of One Side	N/A
Side Yard Street	10
Notes	
1. Special yard requirements and exception see Chapter 5, Section 1.	

g. Building Height.

Building Height Requirements (in feet)	**Public and Semi-Public (P)**
Maximum Building Height	N/A
Maximum Accessory Building Height:	N/A
Special Height Requirements and Exceptions	See Section 9.1.1126

Article 8 DISTRICT REGULATIONS: OPEN SPACE/RECREATION

9.1.802 Agriculture Preserve District (A-4)

a. Purpose and Intent. The purpose of the A-4 District is to provide areas for the commercial production of food and fiber and other compatible uses consistent with the intent and purpose of the Land Conservation Act of 1965. Agricultural uses which create strong odors, or which might disturb adjacent or nearby residential areas with noise or vibration are not appropriate for this zoning district.

b. Permitted Uses. The following uses are permitted in the A-4 district:

1. Apiaries (bee keeping);

a. No hive shall be kept or maintained within 50 feet of any property line of the lot or

parcel upon which it is situated;

b. Every person maintaining bees on the premises shall identify the bee hives by affixing and maintaining a sign in a prominent place near or on hive boxes showing the name of the owner or person in possession of same, and his address and telephone number, or a statement that he has no phone. The sign shall be lettered in black at least one inch in height on a white or light background.

2. Floriculture;

3. General Farming and Similar Agricultural Uses;

4. Home Based Businesses;

5. Horticulture;

6. Nurseries and Greenhouses;

7. 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;

c. Uses Requiring a Conditional Use Permit. In the A-4 district, the following uses are permitted on the issuance of a conditional use permit:

1. A stand for the sale of agricultural products grown on the premises. The stand must comply with the setback regulations pertaining to unenclosed facilities (See Chapter 6, Section H);

2. Commercial Fish Farming;

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

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

5. Mushroom Houses;

6. 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;

7. Residence of the owner, owners, lessee, or lessor of the land on which the use is conducted. In no event shall residential structures be permitted to be built at a density greater than 0.4 units per acre;

8. Those uses described in Section 51201(e) of the Government Code; and

9. Wineries, tasting rooms, and facilities for processing of all agricultural products produced on the premises.

d. Uses Requiring a Temporary Use Permit.

None

e. Lot Requirements. Minimum Lot Area; Minimum Lot Width; Minimum Lot Depth.

Minimum Lot Requirements[1]	**Agriculture Preserve (A-4)**
Lot Area[2] (in square feet)	108,900 (2.5 acres)
Lot Width	300 feet
Lot Depth	300 feet
Notes:	
1. Parcels in the A-4 District shall be within a minimum range of 2.5 – 20 acres	
2. One single family dwelling unit shall be permitted per legal parcel.	

f. Yard Requirements.

Minimum Yard Requirements[1] (in feet)	**Agriculture Preserve (A-4)**
Front Yard	50
Rear Yard	25
Aggregate Width of Side Yard	50
Width of One Side	N/A
Notes	
1. Barns, stables, and other buildings or structures used to house livestock, grainfed rodents, or poultry shall be at least fifty feet (50') from the boundary line of any residential land use district.	

g. Building Height.

Building Height Requirements (in feet)	Agriculture Preserve (A-4)
Maximum Building Height	There shall be no maximum building or structure height in the A-4 district, except that radio and television transmitting facilities shall not exceed seventy-five feet (75').
Maximum Accessory Building Height:	N/A
Special Height Requirements and Exceptions	See Section 9.1.1126

h. Other Regulations.

Development Plan Review. Development Plan Review approval shall be required before issuance of any building or construction permit.

9.1.804 Delta Recreation (DR).

a. Purpose and Intent. The purpose of the DR District is to preserve and protect land areas of special or unusual ecological or geographic interest and to promote a variety of passive recreational uses. Although limited agricultural and commercial uses are provided for in the D-R district, they are allowed only as non-intrusive, secondary uses to the primary recreational uses associated with the natural Delta environment.

b. Permitted Uses. The following uses, or uses determined to be similar by the Community Development Director, are permitted in the DR District:

1. Open space preserve areas including wetlands, habitat refuge areas, and similar uses;
2. Parklands and trails;
3. Interpretive and educational facilities related to the Delta environment;
4. Limited livestock grazing; and
5. Limited agricultural uses.

c. Uses Requiring a Conditional Use Permit. The following uses, or uses determined to be similar by the Community Development Director, are permitted in the DR District, subject to approval of a conditional use permit:

1. Campgrounds;
2. Golf Courses and Driving Ranges;
3. Hunting Clubs (Examples: duck clubs);
4. Marinas; docks (See paragraph B, Section 4-E-2.7);
5. Oil and Natural Gas Wells;
6. Outdoor Recreation Complexes; and
7. Shooting Ranges.

d. Uses Requiring a Temporary Use Permit.

None

e. Lot Requirements.

Minimum Lot Requirements	**Delta Recreation (DR)**
Lot Area (in square feet)	None
Lot Frontage	35 feet
Lot Width	250 feet
Lot Depth	100 feet
Notes:	
1. Special lot requirements and exceptions – see Section 9.1.1118.	

f. Yard Requirements.

Minimum Yard Requirements[1] (in feet)	**Delta Recreation (DR)**
Front Yard	30
Rear Yard	30
Aggregate Width of Side Yard	30
Width of One Side	N/A
Side Yard Street	30
Notes	

1. Special yard requirements and exceptions – See Section 9.1.1124

g. Building Height.

Building Height Requirements (in feet)	Delta Recreation (DR)
Maximum Building Height	40 feet
Maximum Accessory Building Height:	26 feet
Special Height Requirements and Exceptions	See Section 9.1.1126

h. Other Regulations.

Dock and Marina Regulations. Dock and marina projects may be allowed in the D-R district based on the following criteria, as determined appropriate by the Community Development Director:

1. Proposed locations should be along waterways having an adequate channel width as defined by the State Harbors and Navigation Code;

2. Adequate public vehicular access and parking must be provided;

3. Off-site improvements, such as required access roads, must be capable of supporting the proposed development and subsequent use;

4. Adequate on-site sewage or public sewer disposal must be provided;

5. Adequate access for emergency response vehicles must be available;

6. Such uses should minimize the conflict with adjacent agricultural uses or natural resources;

7. Adequate potable water must be provided, as appropriate, for all recreational uses;

8. Encourage public access to the delta and shoreline in conjunction with new dock and marina projects. Such access may be achieved upon the subject property or through cooperative efforts with adjacent property owners.

Article 9 DISTRICT REGULATIONS: OPEN SPACE/RECREATION

9.1.902 Parks and Recreation (PR)

a. Purpose and Intent. The purpose of the PR District is to promote and encourage a suitable environment devoted to parks, recreation, or passive or active open space uses for the enjoyment

of all members of the community. In an effort to conserve the natural setting of the Parks and Recreation zoning district, major utilities and similar uses within this classification are strictly prohibited.

b. Permitted Uses. The following uses, or uses determined to be similar by the Community Development Director, are permitted in the PR District as primary uses:

1. Accessory building and uses (Including concession stands, maintenance buildings, parking lot, restroom building, etc.);

2. City sponsored events and festivals;

3. Public parks and recreation facilities including city parks, county parks, regional parks, community and neighborhood parks;

4. Public and private golf courses;

5. Public recreational equipment (Athletic courts and fields, picnic facilities, and fields; play equipment reservoir, swimming pool).

c. Uses Requiring a Conditional Use Permit.

1. The following uses, or uses determined to be similar by the Planning Director are permitted in the PR District, subject to approval of a conditional use permit:

a. Ancillary commercial uses specifically related to adjoining recreational activities;

b. Eating and drinking establishments with outdoor seating;

c. Outdoor commercial recreation and entertainment (primary use not in a building);

d. Special use facilities including sports parks or complexes and nature centers;

e. Telecommunication Antennae and/or Alternative Tower Structures.

2. The following uses, or uses determined to be similar by the Community Development Director, are permitted in the P-R District subject to the approval of a temporary use permit:

i. Live entertainment events;

ii. Privately sponsored events and facilities.

d. Uses Requiring a Temporary Use Permit.

None

e. Lot Requirements. All proposed developments must be consistent with Chapter 7: Facility Standards of the Oakley Parks and Recreation Master Plan (2020), and are subject to approval by the Community Development Director before issuance of any building or construction permit within this district.

f. Yard Requirements. All proposed developments must be consistent with Chapter 7: Facility Standards of the Oakley Parks and Recreation Master Plan (2020), and are subject to approval by the Community Development Director before issuance of any building or construction permit within this district.

g. Building Height. All proposed developments must be consistent with Chapter 7: Facility Standards of the Oakley Parks and Recreation Master Plan (2020), and are subject to approval by the Community Development Director before issuance of any building or construction permit within this district.

h. Other Regulations.

1. Public Park General Standards. All proposed public parks must be consistent with Chapter 7: Facility Standards of the Oakley Parks and Recreation Master Plan (2020).

2. Refuse and Recycling. Appropriate refuse and recycling containers shall be provided.

Article 10 DISTRICT REGULATIONS: MASTER PLANNED DISTRICTS.

9.1.1002 Planned Unit Development (P-1).

a. Purpose and Intent. 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 purpose of the P-1 District is 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 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.

b. Permitted Uses.

1. The following uses shall be permitted in the P-1 district:

a. 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.

b. A detached single family dwelling on each legally established lot and the accessory structures and uses normally auxiliary to it.

c. A second unit that complies with Section 9.1.1102, or as defined in Final Development Plan.

2. 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.

3. Interim Exceptions. If any land has been zoned P-1 district but no preliminary development plan approved thereon, the following may be approved:

i. Single Family Dwelling. Where it is established to the satisfaction of the Community Development Director 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;

ii. 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 9.1.1502 of this code or Article 15 of this chapter.

c. Uses Requiring a Conditional Use Permit. In the P-1 district, the following uses are permitted after the issuance of a conditional use permit:

1.) A second unit that is more than 1,000 square feet.

d. Uses Requiring a Temporary Use Permit.

None

e. Lot Requirements. Site Minimums; Areas.

Minimum Lot Requirements	**Planned Unit Development (P-1)[1]**
Lot Area (in square feet)	Not required
Lot Width	Not yet established
Lot Depth	Not yet established

Notes
1. 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.

f. Yard Requirements.

Minimum Yard Requirements	**Planned Unit Development (P-1)[1]**
Front Yard	Not yet established
Rear Yard	Not yet established
Aggregate Width of Side Yard	Not yet established
Width of One Side	Not yet established
Notes	
1. 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.	

g. Building Height.

1.) Building Height to be established in Final Development Plan.

h. Other Regulations.

1. Density. The allowable densities shall be determined on a case-by-case basis based on the specific characteristics of the site (including gross acreage) and the need to provide additional zoning control by establishing site-specific conditions of approval and standards for a specific P-1 District.

2. Rezoning: Preliminary Development Plan.

a. Procedure. After initiation by the City of Oakley 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 approved, the preliminary or final development plan and any conditions attached thereto, as approved or later amended, shall be filed with the Community Development Department, and they are thereby incorporated into this chapter and become a part of the ordinance referred to in subsection (a) of this section;

c. Rezoning and Development Plan Application. Except as waived in writing by the Community Development Director, 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:

i. Proposed use(s) of all land in the subject area;

ii. Existing natural land features, and topography of the subject area;

iii. Circulation plan for all vehicular and pedestrian ways;

iv. Metes and bounds of the subject property;

v. Location and dimensions of all existing structures;

vi. Landscaping, parking areas, and typical proposed structures;

vii. 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 Community Development Director;

(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 City Council at the time of any public hearing.

3. Final Development Plan.

a. Requirements.

1. The final development plan drawn to scale, shall:

i. Indicate the metes and bounds of the boundary of the subject property together with dimensions of lands to be divided;

ii. Indicate the location, grades, widths and types of improvements proposed for all streets, driveways, pedestrian ways and utilities;

iii. Indicate the location, height, number of stories, use and number of dwelling units for each proposed building or structure;

iv. Indicate the location and design of vehicle parking areas;

v. Indicate the location and design of proposed landscaping, except for proposed single family residential development;

vi. Indicate the location and design of all storm drainage and sewage disposal facilities;

vii. Provide an engineer's statement of the proposed grading; and

viii. Indicate the location and extent of all proposed land uses.

2. In addition, the final development plan shall be accompanied by:

i. Elevations of all buildings and structures other than single family residences;

ii. A statement indicating procedures, and programming for the development and maintenance of public or semipublic areas, buildings and structures;

iii. A statement indicating the stages of development proposed for the entire development; and

iv. Any additional drawings or information as may be required by the Planning Commission and/or City Council at the time of any public hearing in the matter.

b. Approval Procedure.

1. The final development plan shall be submitted to the Commission for approval, as with conditional use permit applications, except it is the Commission which hears and reviews it. The Commission's decision may be appealed to the City Council in accordance with Article 16 of this chapter or Section 9.1.1602, otherwise it becomes final;

2. A final development plan may be 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;

3. Small-scale development plans. At the discretion of the Community Development Department, small-scale development plans can be approved directly by City Council and are not required to be submitted to the Commission for approval.

c. Combined Application and Final Plan.

1. Combination. An applicant for rezoning to the P-1 district may submit simultaneously and in combination with the zoning application or thereafter but before the City 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 4-F-1.2 and 4-F-1.7 (C);

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 City Council which shall make the final decision on the final development plan along with the rezoning pursuant to subsection and 4-F-1.7 (B).

d. Limits To Flexibility In Design. General Plan policy 2.1.10 states in part that the

Planned Unit Development (PUD) approach shall not allow either an overall greater development density than allowed under the Land Use Diagram or a combination of uses that undermines the overall intent of the project area as established under the General Plan policies and Land Use Diagram.

4. 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 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 City 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 Community Development Director, 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 City 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:

i. Height limitations on buildings and structures;

ii. Percent coverage of land by buildings and structures;

iii. Parking ratios and areas expressed in relation to use of various portions of the property and/or building floor area;

iv. The location, width and improvement of vehicular and pedestrian access to various portions of the property including portions within abutting streets;

v. Planting and maintenance of trees, shrubs, plants, and lawns in accordance with a landscaping plan;

vi. Construction of fences, walls, and lighting of an approved design;

vii. Limitations upon the size, design, number, lighting, and location of signs and advertising structures;

viii. Arrangement and spacing of buildings and structures to provide appropriate open spaces around same;

ix. Location and size of off-street loading areas and docks;

x. 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;

xi. Architectural design of buildings and structures;

xii. Schedule of time for construction and establishment of the proposed buildings, structures, or land uses or any stage of development thereof; and

xiii. 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 City Council as the case may be, shall be satisfied that:

i. The applicant intends to start construction within two (2) years from the effective date of zoning change and plan approval;

ii. The proposed planned unit development is consistent with the City of Oakley General Plan;

iii. 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;

iv. 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;

v. 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

vi. The development of a harmonious, integrated plan justifies exceptions from the normal application of this Code.

5. Termination. Procedure.

i. The approval of a final development plan shall become null and void if substantial construction in good faith reliance on the approval has not commenced within an 18-month period subsequent to such approval.

ii. Such expiration date may be extended by the Community Development Director for one or more periods not exceeding a total of 18 months upon a showing that circumstances and conditions upon which the final P-1 was approved have not changed. If the owner of the property in a P-1 district has failed to commence substantial construction in good faith reliance on the approval, the Planning Commission may initiate proceedings to rezone the P-1 district or amend the development plans as necessary.

6. Plan Changes.

a. Preliminary Development Plan.

i. Changes. Changes in the approved preliminary development plan and its conditions of approval may be approved by the Planning Commission and/or City Council, as with conditional use permit applications except that it is the Commission which hears and reviews them. The Commission's decision may be appealed to the City Council in accordance with Chapter 10; otherwise, it becomes final;

ii. 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.

i. Review, Hearing. The Planning Commission and/or City Council shall review approved final development plan applications for modification pursuant to and otherwise regulated by the conditional use permit provisions of Section 9.1.1602, 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;

ii. Findings. In approving the modification application, the Planning Commission and/or City Council 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;

iii. Conditions. The Planning Commission and/or City Council may impose reasonable conditions and limitations to carry out the purpose of the P-1 district when approving any modification.

7. Variance Permits.

a. Granting.

i. Procedure. Variance permits to modify the provisions contained in subsection (d) of this section may be granted in accordance with Article 16 of this chapter or 9.1.1602 of this Code.

ii. General Plan Consistency. Such variance permit shall not be granted by the City of Oakley hearing the matter unless it finds that the variance is consistent with the General Plan.

9.1.1004 Specific Plan (SP-1).

a. Location. Specific Plan No. 1 (SP-1) applies to the East Cypress Corridor Specific Plan. East Cypress Corridor Specific Plan encompasses approximately two thousand five hundred forty-six

(2,546) acres of land generally located east of the Dutch Slough Restoration Area, south of Bethel Island, north of Rock Slough, and west of Sandmound Slough, within the City of Oakley Sphere of Influence boundaries. The specific plan area is planned for annexation to the City of Oakley pursuant to adoption of the East Cypress Corridor Specific Plan.

b. General Provisions. East Cypress Corridor Specific Plan is an instrument for guiding, coordinating and regulating the development and current use of the subject property. The Specific Plan replaces the usual zoning regulations, except as where otherwise noted in the Specific Plan. The Specific Plan is consistent with and carries out the projections of the Oakley General Plan.

c. Authority and Scope. The adoption of Specific Plan No. 1 by the City is authorized by the California Government Code Title 7, Divisional Chapter 3, Articles 8 and 9, Sections 65450 through 65507.

(Sec. 1, Ordinance No. 13-13, adopted September 24, 2013)

9.1.1006 Specific Plan – 2 (SP-2) District.

a. Location. Specific Plan – 2 (SP-2) District applies to the River Oaks Crossing Specific Plan, which encompasses approximately 76.4 acres of land generally located north of Main Street, east of Bridgehead Road, west of Big Break Road and south of the BNSF railroad tracks, within the City of Oakley.

b. General Provisions. River Oaks Crossing Specific Plan is an instrument for guiding, coordinating and regulating the development and current use of the subject property. The Specific Plan replaces the usual zoning regulations, except as where otherwise noted in the Specific Plan. The Specific Plan is consistent with and carries out the projections of the Oakley General Plan.

c. Authority and Scope. The adoption of Specific Plan – 2 District by the City Council is authorized by the California Government Code Title 7, Chapter 3, Article 8.

(Sec. 2, Ordinance No. 13-13, adopted September 24, 2013; Sec. 1, Ordinance No. 10-08, adopted June 24, 2008)

9.1.1010 Specific Plan – Downtown (SP-4) District.

a. Location. Specific Plan – Downtown (SP-4) District applies to the Oakley Downtown Specific Plan, which encompasses approximately eighty (80) acres of land generally located along Main Street from the railroad tracks to the north to Home Street to the south, and from Gardenia Avenue to the west to the canal crossing at Main Street to the east.

b. General Provisions. Oakley Downtown Specific Plan is an instrument for guiding, coordinating and regulating the development and current use of the subject property. The Specific Plan replaces the usual zoning regulations, except as where otherwise noted in the Specific Plan. The Specific Plan is consistent with and carries out the projections of the Oakley General Plan.

c. Authority and Scope. The adoption of the SP-4 District by the City Council is authorized by the California Government Code Title 7, Chapter 3, Article 8.

(Sec. 3, Ordinance No. 13-13, adopted September 24, 2013; Sec. 1(A), Ordinance No. 06-10, adopted March 9, 2010)

Article 11 ADDITIONAL REQUIREMENTS FOR DEVELOPMENT.

9.1.1102 Accessory Dwelling Units.

a. Purpose and Intent. The purpose of this section is to increase the supply of smaller dwelling units and rental housing units by allowing accessory dwelling units and junior accessory dwelling units to be developed on certain lots which are zoned for single-family and multiple-family residential uses and to establish design and development standards for accessory dwelling units to ensure that they are compatible with existing neighborhoods in compliance with Government Code Section 65852.2, which requires local agencies to consider applications for accessory dwelling unit permits ministerially without discretionary review or public hearing.

b. Definitions.

1) "Accessory dwelling unit" has the meaning set forth in Government Code Section 65852.2.

2) "Attached accessory dwelling unit" means an accessory dwelling unit attached to a primary dwelling unit.

3) "Detached accessory dwelling unit" means an accessory dwelling unit detached from a primary dwelling unit.

4) "Internal conversion" means the establishment of an accessory dwelling unit or junior accessory dwelling unit within an existing or proposed primary dwelling unit or within an existing accessory building.

5) "Junior accessory dwelling unit" means a unit that is no more than five hundred (500) square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure, or as otherwise amended in Government Code Section 65852.22.

c. Permissible Locations. Accessory dwelling units and junior accessory dwelling units are permitted on lots zoned to allow single-family or multiple-family dwelling residential uses. No subdivision rights are authorized that would result in the accessory dwelling unit being located on a separate lot.

d. Permitting Procedure.

1) Except as otherwise provided in this section, an application for a permit to establish an accessory dwelling unit will be approved ministerially without discretionary review or public hearing if the accessory dwelling unit meets the location requirements and development standards of this section, and all applicable building code standards and water and sewage requirements.

2) An application for a permit to establish an accessory dwelling unit that meets at least one of the following descriptions shall be ministerially approved without a public hearing, and is not subject to the location requirements and development standards of this section:

a) One internal conversion that is either an accessory dwelling unit or a junior accessory dwelling unit on a lot with a proposed or existing single-family dwelling, if: the internal conversion has independent exterior access not visible from a public or private street; the side and rear setbacks are sufficient for fire safety; and the internal conversion meets all applicable building code standards and all applicable sewage and water requirements. If the internal conversion is a junior accessory dwelling unit, it must comply with the requirements of Government Code Section 65852.22. An internal conversion under this subsection may include an expansion of not more than one hundred fifty (150) square feet beyond the physical dimensions of an existing building only if the expansion is limited to accommodating ingress and egress.

b) One detached, new construction, accessory dwelling unit on a lot with a proposed or existing single-family dwelling, if: the side and rear setbacks are a minimum of four feet as measured to the closest portion of the building; the detached accessory dwelling unit does not exceed eight hundred (800) square feet in floor area; the detached accessory dwelling unit does not exceed sixteen (16) feet in height from adjacent grade at its highest point; and the detached accessory dwelling unit meets all applicable building code standards and all applicable sewage and water requirements. The detached accessory dwelling unit may be combined with a junior accessory dwelling unit permitted in subsection (d)(2)(a) of this section.

c) One or more accessory dwelling units that are internal conversions within the nonlivable space of an existing multiple-family dwelling, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages. Each internal conversion under this subsection must meet all applicable building code standards and all applicable sewage and water requirements. The number of internal conversions permitted within an existing multiple-family dwelling under this subsection may not exceed twenty-five percent (25%) of the number of existing multiple-family dwelling units in the dwelling being converted.

d) One or two detached accessory dwelling units on a lot with an existing multiple-family dwelling, if: the side and rear setbacks are a minimum four feet as measured to the

closest portion of the building; the detached accessory dwelling unit does not exceed eight hundred (800) square feet in floor area; the detached accessory dwelling unit does not exceed sixteen (16) feet in height from adjacent grade at its highest point; and the detached accessory dwelling unit meets all applicable building code standards and all applicable sewage and water requirements.

e. Application Contents. An application for a permit approving an accessory dwelling unit or junior accessory dwelling unit must be made in writing to the Community Development Department prior to the submittal of an application for a building permit and contain the following information:

1) The name(s) and address(es) of applicant(s) and property owner(s).

2) The address and assessor's parcel number for the property.

3) The manner in which the accessory dwelling unit will be established, including conversion of a portion of the existing primary residence, conversion of an existing accessory structure, addition of an attached accessory dwelling unit to the existing residence, or creation of a detached accessory dwelling unit.

4) Size, indicating dimensions and square footage of the primary dwelling unit and the proposed accessory dwelling unit.

5) Floor plans and elevations for the primary residence and accessory dwelling unit. The floor plans shall identify the resulting total floor area square footage of each structure. The size and location of all windows and doors shall be clearly depicted. The application shall also include elevations that show all architectural features, openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials, and color board for the existing residence and the proposed accessory dwelling unit.

6) A legible site plan, drawn to scale and showing:

a) A north arrow to indicate parcel orientation.

b) Lot dimensions and labels for all property lines.

c) The location of the primary residence and the accessory dwelling unit on the lot.

d) The setbacks of all existing and proposed structures on the project site and all structures and improvements located on adjacent lots. For new structures, provide setbacks to the portion of the structure that projects furthest towards the property line. All structures shall be identified.

e) All other existing improvements, including driveways and parking areas.

f) All easements, building envelopes, and special requirements of the subdivision as shown on the final map and improvement plans.

g) A grading plan, indicating how the property is to be graded and drained, if applicable.

7) The location and description of utility, water, and sanitary services for both the primary residence and the accessory dwelling unit.

8) The property owner's consent to physical inspection of the premises.

9) Color photographs of the site and adjacent properties. The photos shall be taken from each of the property lines of the project site to show the project site and adjacent sites. Each photograph shall be labeled and reference the site.

10) A written legal description of the property.

11) A letter from water, natural gas, electricity, and sewer service providers stating that they have adequate capacity to serve the accessory dwelling unit. If the applicant intends to use a private water or sewage disposal service, pursuant to subsection (f)(4) of this section, a letter from the water or sewer service provider shall not be required.

f. Development Standards. All accessory dwelling units shall comply with the following development standards:

1) Accessory Dwelling Unit Size.

a) A detached accessory dwelling unit may not exceed the following size:

(1) Eight hundred (800) square feet in compliance with subsection (d)(2)(b) of this section when the detached accessory dwelling unit is proposed to result in fifty percent (50%) or greater total lot coverage when combined with all existing and proposed on-site structures.

(2) Eight hundred fifty (850) square feet for units with only one bedroom.

(3) One thousand (1,000) square feet for units with more than one bedroom.

(4) One thousand two hundred (1,200) square feet for units that have more than one bedroom and are located on estates lots (zoned P-1, R-15, R-20, R-40 or AL and at least fifteen thousand (15,000) square feet in size).

b) An attached accessory dwelling unit may not exceed the smaller of the following sizes:

(1) The size limitations specified in subsection (f)(1)(a) of this section for detached

accessory dwelling units.

(2) Fifty percent (50%) of the living area of an existing primary dwelling unit.

(3) Eight hundred (800) square feet.

2) Living Provisions. An accessory dwelling unit must provide complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

3) Permanent Foundation. A permanent foundation is required for all accessory dwelling units.

4) Sewer and Water. If the applicant proposes to use a private sewage disposal system, water system, or both for the accessory dwelling unit, the system must meet all applicable regulations of the City and Contra Costa County, and the County Health Officer must approve the system. Any such private sewage or water system must be designed by a licensed civil engineer to meet the increased load of the accessory dwelling unit and in accordance with the requirements of the most recent version of the California Plumbing Code. The design of the private sewage disposal or water system must be approved prior to the issuance of any permits for the accessory dwelling unit.

5) Architecture. An accessory dwelling unit must have independent exterior access separate from that of the primary dwelling unit. The independent exterior access must not be visible from the public or private street.

6) Types of Accessory Dwelling Units. An accessory dwelling unit may be attached to a primary dwelling unit or detached from a primary dwelling unit.

a) If an accessory dwelling unit is attached to a primary dwelling unit, the accessory dwelling unit must be an internal conversion of an area within the primary dwelling unit, or an addition to the primary dwelling unit.

b) If an accessory dwelling unit is detached from a primary dwelling unit, the accessory dwelling unit must be an internal conversion of an accessory structure, or new construction. A detached accessory dwelling unit must be located on the same lot as a primary unit.

7) Garage Attached to a Detached Accessory Dwelling Unit. If a garage is attached to a detached accessory dwelling unit, the garage may not exceed the following sizes:

a) Up to two hundred twenty-five (225) square feet on a lot in any zoning district where an accessory dwelling unit is permitted.

b) Up to four hundred fifty (450) square feet on estates lots (zoned R-15, R-20, R-40 or AL and at least fifteen thousand (15,000) square feet in size) where an accessory dwelling unit is allowed.

8) Yards and Building Height.

a) An accessory dwelling unit must comply with all requirements relating to required yard setbacks, required yard coverage, projections into yards, and building height, that are generally applicable to residential construction in the applicable zoning district, except as otherwise provided in this subsection (f)(8).

b) A setback is not required for an accessory dwelling unit that is an internal conversion or that is constructed in the same location and to the same dimensions as an existing building.

c) A setback of four feet from the side and rear property lines is required for an accessory dwelling unit that is not an internal conversion and is not constructed in the same location and to the same dimensions as an existing building.

d) An accessory dwelling unit may not exceed sixteen (16) feet in height to the highest portion of the structure.

9) Off-Street Parking.

a) A lot containing an accessory dwelling unit must provide an additional off-street parking space to serve the accessory dwelling unit, except as otherwise provided in this subsection. The additional space may be within a setback area, such as an existing legal driveway, or in tandem, unless specific findings are made that parking in a setback area or in tandem is not feasible based on site or regional topographical or fire and life safety conditions.

b) Replacement parking spaces are not required if a garage, carport, or covered parking structure that provides off-street parking is demolished or converted in conjunction with the construction of the accessory dwelling unit.

c) No additional off-street parking is required for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half 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 an internal conversion.

(4) The accessory dwelling unit is located within a permit-parking area, but an on-street parking permit is not available to the resident of the accessory dwelling unit.

(5) A car share vehicle pick-up location is within one block of the accessory dwelling unit. A "car share vehicle" has the same meaning as in California Code, Vehicle Code Section 22507.1.

g. Occupancy. No accessory dwelling unit or junior accessory dwelling unit may be rented or offered for rent for a term of less than thirty (30) days.

1) Effective January 1, 2025, an applicant for a permit issued pursuant to this section shall be an owner-occupant of the subject property.

h. Deed Restrictions. Before obtaining a building permit for an accessory dwelling unit or junior accessory dwelling unit, the property owner(s) shall file with the County Recorder a declaration or agreement of restrictions, which has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

1) The accessory dwelling unit shall not be sold separately.

2) The accessory dwelling unit is restricted to the maximum size allowed per the development standards in this section.

3) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.

4) The property owner shall also prepare a disclosure statement that shall be provided to any potential purchaser of the property on which the accessory dwelling unit is located. The disclosure shall indicate the requirements associated with an accessory dwelling unit permit and provide the following information in substantially the same form:

You are purchasing a property with a permit for a residential (junior) accessory dwelling unit. The permit carries with it certain restrictions that must be met by the owner of the property. You are prohibited from selling the (junior) accessory dwelling unit separately. The (junior) accessory dwelling unit is restricted to the maximum size allowed under the permit. The (junior) accessory dwelling unit may not be rented or offered for rent for a term of less than 30 days. The permit is available from the current owner or the City of Oakley Community Development Department.

i. Nonconforming Units. Notwithstanding any other provision of the Zoning Ordinance, if an existing primary residence constitutes a legal nonconforming structure, an accessory dwelling unit

or junior accessory dwelling unit may be constructed only if the nonconformity is not expanded and the accessory dwelling unit or junior accessory dwelling unit meets all current applicable zoning district standards.

j. Variances. Variance permits to modify pertinent applicable zoning district provisions regulating accessory dwelling units may be granted as allowed by and in accordance with the involved district's regulations.

k. Timing of Permit Issuance. A building permit final shall not be issued for an accessory dwelling unit before final inspection of the primary dwelling unit passes.

l. Building and Similar Permits. Receipt of a permit for an accessory dwelling unit under this section shall not relieve the applicant from the burden of obtaining all other applicable permits, including but not limited to building and similar permits.

m. Fees. Fees for accessory dwelling unit and junior accessory dwelling unit permits will be in amounts established by the Oakley City Council fee schedule.

(Sec. 1, Ordinance No. 07-20, adopted May 12, 2020; Sec. 2(B), Ordinance No. 01-17, adopted February 14, 2017)

9.1.1104 Accessory Structures. – Reserved.
Reserved.

9.1.1106 Historic Preservation. – Reserved.
Reserved.

9.1.1108 Landscape Requirements. – Reserved.
Reserved.

9.1.1110 Fences and Other Structures.
a. Residential Fence Regulations.

1) Standard Lots. In residential zoning districts R-6, R-7, R-10, and R-12, and P-1 with minimum lot sizes of fifteen thousand (15,000) square feet or less and no specific fence regulations, open and closed fences and solid forms of landscaping shall be subject to the following limitations:

a) Between the front property line and the front yard setback line (front yard setback), closed fences and solid forms of landscaping shall not exceed three feet in height. Open fences shall not exceed four and one-half feet in height. Fences may consist of a combination of closed and open materials so long as the portion above three feet in height is open fence, and the total height does not exceed four and one-half feet.

b) In addition to subsection (a)(1)(a) of this section, fences or gates that span between a side yard fence and the house or garage shall be set back from the adjacent house or garage front facade a minimum of one foot on interior side yard lot lines, and ten (10) feet on corner side yard lot lines.

c) From the front yard setback line to the back property line (outside the front yard setback), open and/or closed fences and solid forms of landscaping shall not exceed seven feet in height.

d) If a fence crosses a driveway located between the front of the residence and the front property line, any gate in the fence for vehicular access shall be located a minimum twenty (20) feet from the front property line, regardless of the height of the fence and gate.

e) The addition of decorative entry features to a fence or solid landscaping form shall not result in a total height in excess of eight feet. The combined width of all decorative entry features shall not exceed four feet.

2) Estate Lots. In residential zoning districts R-15, R-20, R-40, and AL, and P-1 with minimum lot sizes greater than fifteen thousand (15,000) square feet and no specific fence regulations, fences and solid forms of landscaping shall be subject to the following limitations:

a) Between the front property line and the front yard setback line (front yard setback), closed fences and solid forms of landscaping shall not exceed three feet in height. Open fences in the same location shall not exceed seven feet in height. Fences may consist of a combination of closed and open materials so long as the portion above three feet in height is open fence, and the total height does not exceed seven feet. All fences shall comply with fencing guidelines contained in the Residential Design Guidelines, Estate Neighborhoods, and shall be subject to the review and approval of the Community Development Director.

b) In addition to subsection (a)(2)(a) of this section, fences or gates that span between a side yard fence and the house or garage shall be set back from the adjacent house or garage front facade a minimum of one foot on interior side yard lot lines, and ten (10) feet on corner side yard lot lines.

c) From the front yard setback line to the back property line (outside the front yard setback), open and/or closed fences and solid forms of landscaping shall not exceed seven feet in height.

d) If a fence crosses a driveway within the front setback adjacent to a public right-of-way, any gate in the fence for vehicular access shall not open outward toward the street, and the specific location of the gate shall be subject to review and approval by the Public

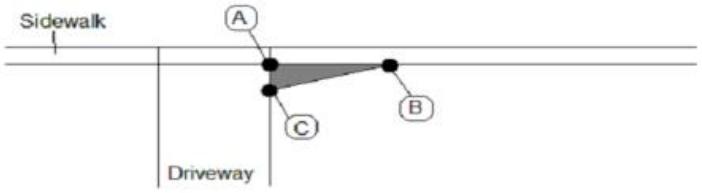
Works and Engineering Department.

e) The addition of decorative entry features to a fence or solid landscaping form shall not result in a total height in excess of eight feet. The combined width of all decorative entry features shall not exceed eight feet.

3) Environmental Mitigation. The height of a fence may be established upon approval by the Planning Commission or City Council of the mitigation measures of a mitigated negative declaration or environmental impact report to mitigate adverse noise or visual impacts.

4) Driveway Visibility Triangle. The visibility triangle of a residential driveway crossing a residential street property line may not be blocked by a fence or solid form of landscaping above a height of three feet. The visibility triangle is made up of the following three lines: (a) a fifteen (15) foot line along the back of sidewalk starting where the edge of driveway intersects the sidewalk (Line A-B in Figure 1); (b) a five-foot line along the side of the driveway starting at the same point the sidewalk line starts (Line A-C in Figure 1); and (c) a line connecting the two endpoints of the sidewalk line and the driveway line (Line B-C in Figure 1). Where another street intersects the sidewalk less than fifteen (15) feet from the driveway, that point shall be used for the endpoint of the sidewalk line. Where there is no sidewalk, the edge of pavement shall be used as the appropriate measuring point.

Figure 1. – Driveway Visibility Triangle Diagram



5) Fence Height Measurement and Variation. The height of fences and landscaping forms shall be measured from the highest adjoining grade. When a freestanding fence is constructed on top of a retaining wall because of a grade differential, and if building permits are issued for the combined freestanding fence/retaining wall, the fence height measurement shall not include the height of the retaining component. If a solid landscaping form is attached to a fence located in a residential front yard setback, its height may exceed the limits imposed by this section by ten percent (10%).

6) Fence Materials.

a) Open fences in the front yards of standard lots (see subsection (a)(1) of this section) may consist of wrought iron, split rails, wooden pickets, and similar designs and

materials. On estate lots (see subsection (a)(2) of this section), open front yard fences shall comply with Oakley's Residential Design Guidelines for Estate Neighborhoods;

b) On standard lots, chain link may be used in side and rear yard fences between the front of the residence and the rear property line, in front yards if it contains slats of vinyl or other materials, and in the construction of front yard gates. Chain link shall be considered an open fence material, unless it contains slats of vinyl or other materials, in which case it shall be treated as a closed fence;

c) Fences on residential properties may not contain barbed wire or razor wire or any variation thereof;

d) Fences adjacent to public right-of-way shall be constructed of materials that resist decay and deterioration; and

e) Any fences constructed after adoption of this section shall comply with the fencing provisions in the Residential Design Guidelines.

Summary of Residential Fence Regulations					
Lot Type	**Maximum Height of Open Fences in Front Yard Setbacks**	**Maximum Height of Closed Fences between Front Yard Setback Line and Front Property Line**	**Maximum Height of Fences outside of Front Yard Setback**	**Maximum Dimensions of Decorative Entry Features for All Fence Types**	**Minimum Distances of Fences from Front Property Line If Crossing Driveway**
Standard Lot	4.5 feet	3 feet	7 feet	8 feet tall, combined 4 feet wide	20 feet
Estate Lot	7 feet[1]	3 feet	7 feet	8 feet tall, combined 8 feet wide	Per Public Works and Engineering
[1] Materials and design require approval of the Community Development Director.					

(Sec. 2, Ordinance No. 07-20, adopted May 12, 2020; Sec. 2, Ordinance No. 13-08, adopted July 8,

2008)

9.1.1112 Heritage and Protected Trees.

a. Purpose and Intent.

1) This chapter provides for the preservation of certain protected trees in the City of Oakley. In addition, this chapter provides for the protection of trees on private property by controlling tree removal while allowing for reasonable enjoyment of private property rights and property development for the following reasons:

a) The City finds it necessary to preserve trees on private property in the interest of the public health, safety and welfare and to preserve scenic beauty;

b) Trees provide soil stability, improve drainage conditions, provide habitat for wildlife and provide aesthetic beauty and screening for privacy;

c) Trees are a vital part of a visually pleasing, healthy environment for the City.

2) This chapter defines heritage trees, includes them as protected trees, and allows for nomination of trees to heritage tree status. In addition, this chapter recognizes the cultural importance of heritage trees for the following reasons:

a) Among the features that contribute to the attractiveness and livability of the City are its heritage trees growing as single specimens and in clusters. These trees have significant psychological and tangible benefits for both residents and visitors to the City;

b) Heritage trees contribute to the visual framework of the City by providing scale, color, silhouette and mass. Heritage trees contribute to the climate of the City by providing shade, moisture and wind control. Heritage trees contribute to the protection of other natural resources by providing erosion control for the soil, oxygen for the air, replenishment of groundwater, and habitat for wildlife. Heritage trees contribute to the economy of the City by sustaining property values and reducing the cost of drainage systems for surface water. Heritage trees provide landmarks of the City's history and a critical element of nature in the midst of urban settlement;

c) For all these reasons, it is in the interest of the public health, safety and welfare of the City to regulate the removal of heritage trees, to require adequate protection of trees during construction, and to promote the appreciation and understanding of heritage trees.

b. Regulations.

1) The Community Development Department, after consulting with and considering the recommendations of the Public Works and Engineering Department, may from time to time propose to the City Council regulations to establish procedures to implement this chapter and

to make more specific the standards and guidelines prescribed in this chapter. Such regulations, as approved by resolution of the City Council, shall have the force and effect of law unless otherwise indicated.

2) Regulations may be promulgated to set forth criteria for granting and denying destruction permits and, among other things, to govern the marking of heritage trees and the prevention of excessive pruning.

c. Definitions.

1) "Arborist" shall mean a person currently certified by the Western Chapter of the International Society of Arboriculture as an expert on the care of woody trees, shrubs and vines in the landscape, a consulting arborist who satisfies the requirements of the American Society of Consulting Arborists or such other arborist who, after review by the Director, is determined to meet the standards established for certified or consulting arborists hereinabove described;

2) "Arborist report" shall mean a report prepared by a certified or licensed arborist on:

a) The possible impact of development on trees or existing tree condition;

b) The impact of any alteration; and/or

c) Restorative or other remedial action that might be feasible to address tree alterations;

3) "Department" means the Community Development Department;

4) "Development" means any modification of land for human use from its existing state which requires a discretionary entitlement for its establishment or a building and/or grading permit involving a protected tree or trees;

5) "Development application" shall mean an application for development (as defined in this article) requiring either ministerial or discretionary approvals including design review, use permits, subdivisions, rezoning applications, building and/or grading permits;

6) "Director" means the Community Development Director or his/her designee;

7) "Heritage Tree" (see subsection (d) of this section, "Heritage Tree Definition and Designation");

8) "Protected Tree" (see subsection (e) of this section, "Protected Tree Definition and Designation);

9) "Riparian vegetation" shall mean vegetation that is found along creeks and streams.

Runoff streams that only carry runoff during the rain seasons in this area are known to support significant riparian vegetation;

10) "Routine pruning" shall mean the removal of dead or dying, diseased, weak or objectionable branches of a tree in a reasonable and scientific manner which does not structurally harm the tree;

11) "Topping" shall mean the removal of the upper twenty-five percent (25%) or more of a tree's trunk(s) or primary leader;

12) "Tree" shall mean a large woody perennial plant with one or more trunks, branches and leaves, not including shrubs shaped to tree forms;

13) "Tree removal" shall mean the destruction of any protected tree by cutting, grading, girdling, interfering with water supply, applying chemicals or by other means;

14) "Undeveloped property" shall mean:

a) A parcel of private land which is vacant or a developed parcel which has remaining development potential;

b) A parcel of land that can be further divided in accordance with zoning regulations of the City; or

c) A parcel of land on which the structures are proposed to be demolished or relocated.

d. Heritage Tree Definition and Designation.

1) On all properties within the City of Oakley, a heritage tree is defined as any of the following:

a) A California native oak (Valley Oak – Quercus lobata; Leather Oak – Quercus durata; California Black Oak – Quercus kelloggii; Canyon Live Oak – Quercus chrysolepis; Interior Live Oak – Quercus wislizenii; Island Oak – Quercus tomentella; Engelmann Oak – Quercus engelmanni; Coast Live Oak – Quercus agrifolia) that measures at least fifty (50) inches in circumference (fifteen and six-tenths (15.6) inches diameter) at four and one-half feet above grade, regardless of location or health; or

b) A tree of a species other than a California native oak that measures at least fifty (50) inches in circumference at four and one-half feet above grade and is either on an undeveloped property, located on public property or within the right-of-way, or located on private property and is found to provide benefits to the subject property as well as neighboring properties, subject to determination by the Director.

e. Protected Tree Definition and Designation.

1) On all properties within the City of Oakley, a protected tree is any one of the following:

a) A heritage tree as defined by this chapter; or

b) A tree adjacent to or part of a riparian habitat, foothill woodland or oak savanna area that measures twenty (20) inches or larger in circumference (approximately six and one-half inches in diameter) as measured at four and one-half feet above grade, or a multi-stemmed tree with the sum of the circumferences measuring forty (40) inches or larger as measured four and one-half feet above grade, and is included in the following list of indigenous trees: Acer macrophyllum (Bigleaf Maple), Acer negundo (Box Elder), Aesculus califonica (California Buckeye), Alnus Rhombifolia (White Alder), Arbutus menziesii (Madrone), Heteromeles arbutifolia (Toyon), Juglans hindsii (California Black Walnut), Juniperus californica (California Juniper), Lithocarpus densiflora (Tanoak or Tanbark Oak), Pinus attenuata (Knobcone Pine), Pinus sabiniana (Digger Pine), Platanus racemosa (California Sycamore), Populus fremontii (Fremont Cottonwood), Populus trichocarpa (Black Cottonwood), Quercus agrifolia (California or Coast Live Oak), Quercus chrysolepis (Canyon Live Oak), Quercus douglasii (Blue Oak), Quercus kelloggii (California Black Oak), Quercus lobata (Valley Oak), Quercus wislizenii (Interior Live Oak), Umbellularia californica (California Bay or Laurel); or

c) Any tree shown to be preserved on an approved tentative map, or development or site plan or required to be retained as a condition of approval; or

d) Any tree required to be planted as a replacement for an unlawfully removed tree.

f. Destruction or Removal.

1) Prohibition. Except as provided in this chapter, no person shall destroy or remove any protected tree unless a permit has been obtained therefor, unless exempt from a tree removal permit pursuant to this chapter. This chapter does not require a permit for trimming, pruning, or maintenance of a protected tree where such does not result in destruction nor substantially change the tree's form or shape.

g. Tree Protection and Preservation.

1) Encroachment, Construction or Excavation. When proposed developments or construction encroaches into the drip line or a radius of twelve (12) feet from the trunk, whichever is greater, of any protected tree required to be preserved, the involved developer and/or contractor shall submit an arborist report, subject to review and approval by the Community Development Department. The arborist report shall include required measures to be implemented during grading and construction to allow the roots to breathe, obtain water and

nutrients, and minimize damage to the portion of the tree visible above ground level. Excavation, cuts, fills or compaction of the existing ground surface within the drip line or a radius of twelve (12) feet from the trunk of a protected tree, whichever is greater, shall minimize such damage to the root system so as to result in least damage to such tree. Permission is required prior to back filling. Tree wells may be used where approved by the Community Development Department. The cost of required pruning or other treatment to compensate for root damage and/or cost of removal shall be at the expense of the involved developer and/or contractor but may be shared by the owner. Such pruning as is done shall not cause permanent injury or destroy any protected tree;

2) Storage and Dumping. No person shall store or dump any oil, gas, or chemicals that may be harmful to trees, nor place heavy construction machinery or construction materials in the open within the drip line of any protected tree or within a radius of twelve (12) feet from the trunk of such tree, whichever is greater;

3) Burning. Burning of any material within or near the drip line of any protected tree shall not be done where such may injure the tree;

4) Attachments. No person shall attach any wire (except as needed for support) or sign (other than approved tree identification signs) to any protected tree where such wire or sign may damage such protected tree;

5) Damage Notification. The contractor, developer or owner or any agent thereof shall notify the Community Development Department without undue delay of any damage or unlawful removal that occurs to any protected tree during grading, construction or maintenance. The cost of repair of the damage or tree replacement shall be at the expense of the responsible party and the repair work done according to standards approved by the Community Development Department. The cost of repair or replacement is to be determined by the following method:

a) The responsible party shall secure an appraisal of the condition and value of the damaged tree(s) as existing prior to damage. 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 done at the responsible party's sole expense, and the appraiser shall be subject to the City's approval, which it shall not unreasonably withhold. The appraisal shall be performed by a certified arborist, as that term is defined by the Western Chapter of the International Society of Arboriculture; a consulting arborist who satisfies the requirements of the American Society of Consulting Arborists; or such other arborist who, after review by the Community Development Department, is determined to meet the standards established for certified or consulting arborists.

b) If the appraised value of the tree(s) is $25,000 or less, the responsible party shall deposit with the City of Oakley, in cash or such other security as may be acceptable to the Director, an amount equal to the value of each tree within the development area of the site. If the appraised value of the tree(s) is over $25,000, the responsible party shall deposit with the City of Oakley in cash or such other security as may be acceptable to the Director an amount equal to $25,000 plus fifty percent (50%) of the additional amount over $25,000. (Ex. Appraised value of tree(s) equals $45,000. Deposit equals $35,000 ($25,000 plus fifty percent (50%) of the remaining $20,000).) The remaining unpaid portion of an appraisal over $25,000 shall be paid in full within a period of one hundred eighty (180) days of the initial deposit.

Appraisal Value of Tree(s)	Initial Amount Due	Amount Due w/in 180 Days
Up to $25,000	Full amount	N/A
Over $25,000	($25,000) + (50% of remaining amount)	(Full appraisal amount) – (Initial amount due)

c) As an alternative to this subsection, the Director may implement the replacement requirements in subsection (g)(11) of this section.

6) Application.

a) Any application for a permit to destroy, cut down or remove a protected tree shall be submitted to the Community Development Department by the owner or his authorized agent (satisfactory evidence of such authorization to be submitted with the application) on the form provided by the Community Development Department together with any specified fee;

b) The application shall contain the location, number, species, and size of the protected tree to be destroyed, cut down or removed and a statement of reasons for the proposed action, together with such other information as may be required by the Community Development Department, including an arborist report.

7) Procedure. Before issuing a permit, the Director shall have inspected or cause to be inspected the property, the protected tree that is the subject of the permit, and the surrounding area. A permit shall be granted, modified, conditioned, or denied based upon the following factors:

a) The health, damage, or danger of falling of the protected tree that is the subject of the permit and whether said protected tree acts as a host for plants or animals parasitic to other trees which are endangered thereby;

b) The presence of public nuisance factors, and the proximity to or interference with utilities, or interference with existing buildings to the extent that a tree or trees cannot be trimmed or buttressed to fit the site;

c) The prevention of development as a result of protected tree protection and preservation;

d) The pursuit of good professional practices of forestry or landscape design.

8) Development Coordination.

a) An application for a permit to destroy, cut down or remove any protected tree in connection with any development shall be submitted and combined with the initial application for approval of the development and shall be considered together with the review and decision on the development;

b) The proposed development shall indicate all protected trees on its plan. The protected trees shall be evaluated and their individual treatment considered with respect to the land use and proposed development;

c) The Community Development Department may grant, grant with modifications or conditions, or deny the requested protected tree removal application; and

d) Any appeal of a decision made by the Community Development Department on the requested protected tree removal application shall be made in the same manner and subject to the same procedure as a decision on the involved combined planning or subdivision entitlement for the development.

9) Review and Site Inspection. Prior to making a decision, the Director shall review the application using the criteria and factors specified in this article. Application review may include a site visit.

10) Factors. In granting or denying the tree permit the following factors shall be considered:

a) General.

(1) The proximity and number of other trees in the vicinity;

(2) The relationship of the subject property to general plan open space or open space plans and policies.

b) For Approval.

(1) The arborist report indicates that the tree is in poor health and cannot be saved;

(2) The tree is a public nuisance and is causing damage to public utilities or streets and sidewalks that cannot be mitigated by some other means (such as root barriers, etc.);

(3) The tree is in danger of falling and cannot be saved by some other means (such as pruning);

(4) The tree is damaging existing private improvements on the lot such as a building foundation, walls, patios, decks, roofs, retaining walls, etc.;

(5) The tree is a species known to be highly combustible and is determined to be a fire hazard;

(6) The proposed tree species or the form of the tree does not merit saving (i.e., a tree stunted in growth, poorly formed, etc.);

(7) Reasonable development of the property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot;

(8) The tree is a species known to develop weaknesses that affect the health of the tree or the safety of people and property. These species characteristics include but are not limited to short lived, weak wooded and subject to limb breakage, shallow rooted and subject to toppling.

c) For Denial.

(1) The applicant seeks permission for the alteration or removal of a healthy tree that can be avoided by reasonable redesign of the site plan prior to project approval (for nondiscretionary permits);

(2) It is reasonably likely that alteration or removal of the tree will cause problems with drainage, erosion control, land stability, windscreen, visual screening, and/or privacy and said problems cannot be mitigated as part of the proposed removal of the tree;

(3) The tree to be removed is a member of a group of trees in which each tree is dependent upon the others for survival;

(4) The value of the tree to the neighborhood in terms of visual effect, wind screening, privacy and neighboring vegetation is greater than the hardship to the owner;

(5) If the permit involves trenching or grading and there are other reasonable

alternatives including an alternate route, use of retaining walls, use of pier and grade beam foundations and/or relocating site improvements;

(6) Any other reasonable and relevant factors specified by the Director.

11) Decision. The Director shall grant or deny tree permits in accordance with this chapter and code, unless the application is part of a development application, in which case the Planning Commission or City Council will grant or deny the permit. As part of the tree permit application, the applicant shall propose the manner in which the removed tree(s) will be replaced, subject to this subsection.

a) Replacement options include:

(1) Replacement of the removed tree(s) at a three to one ratio with twenty-four (24) inch box trees;

(2) Replacement of the tree(s) at a twelve (12) to one ratio with fifteen (15) gallon trees;

(3) Payment of in-lieu fees equal to the replacement trees' value and installation costs, as calculated with a twelve (12) to one ratio of fifteen (15) gallon trees; or

(4) A combination of replacement and payment of in-lieu fees.

b) The Director or Planning Commission/City Council may exercise discretion in applying any of the available options.

c) All replacement trees shall be guaranteed by the applicant to survive for at least one year from the date of installation and irrigation. If any replacement tree fails to survive for a period of one year from the date of installation and irrigation, then the applicant shall replace the tree at the applicant's sole expense.

d) Single tree permits shall be valid for a period of ninety (90) days and may be renewed for additional periods by the Director upon request by the applicant. Collective tree permits shall be valid for a period of time to be determined by the Director based upon individual circumstances.

Replacement Type	**Existing Condition (Ex. 4 trees to be removed)**	**Replacement Result**
24-inch box trees	3:1 x 4 trees = 12 24-inch box trees	The applicant shall install a total of 12 24-inch box trees in addition to already existing street tree requirements.

15-gallon trees	12:1 x 4 trees = 48 15-gallon trees	The applicant shall install a total of 48 15-gallon trees in addition to already existing street tree requirements.
In-lieu fee	Cost of tree and installation of: 1) 48 15-gallon trees; or 2) The remaining in-lieu fee after any replacement.	The applicant shall either pay in-lieu fees equal to the cost of each 15-gallon replacement tree, including installation cost, or provide a combination of replacement and in-lieu fees that would result in replacement fulfillment. If the number of replacement trees is high and the project area cannot support all of the replacement trees with existing tree requirements, in-lieu fees or a hybrid approach is appropriate.

e) If a permit is denied, the Director and/or Planning Commission/City Council shall state the reason for denial. Notice of decision shall be mailed to the applicant.

f) Appeals. Any person may appeal the Director's decision within ten (10) calendar days of the Director's decision to the Planning Commission in accordance with Section 9.1.1612. Appeals shall be made in writing and state the specific reasons why the decision does not meet the criteria and factors for granting or denial of a permit as stated in this chapter.

h. Permit Exceptions.

1) No Permit. A tree permit is not required for the following situations:

a) Hazardous Situation. Any tree whose condition creates a hazardous situation that requires immediate action as determined by the Director, Building Inspector, Chief of Police, involved fire district or a utility company to protect its facilities. During off-hours, when officials described above are unavailable, the hazardous situation may be corrected and a report of the incident and description of the hazard shall be submitted to the Director within ten (10) days of the incident.

b) Prior Approval. Any tree whose removal was specifically approved as a part of an approved development plan, subdivision, other discretionary project or a building permit.

c) Routine pruning not involving topping or tree removal.

d) Commercial Plantings. Planting, removal and harvesting in connection with Christmas tree farms, orchards, and nurseries.

e) Rangeland Management. Normal activities associated with range management and

the disposition of wood incidental to rangeland management on agriculturally zoned properties (with each parcel containing at least twenty (20) acres but also including properties in adjacent common ownership interest of at least twenty (20) acres) will not require a tree permit. "Rangeland management activities" are defined as including but not limited to the clearing and thinning of trees for purposes of reducing fire risk or enhancement of forage production, removing obstruction to stormwater runoff flow, maintaining adequate clearance on range roads and fire trails, fencing maintenance and protecting equipment and constructions.

f) Public Agencies/Utilities. Trimming and clearing within public agency or utility easements and rights-of-way for maintenance of easement or right-of-way will not require a tree permit. Lands owned by public utilities and used for administrative purposes or uses unrelated to the public service provided by the utility are not exempted under this provision.

2) Proposed Development.

a) On any property proposed for development approval, tree alterations or removal shall be considered as a part of the project application.

b) All trees proposed to be removed, altered or otherwise affected by development construction shall be clearly indicated on all grading, site and development plans. Except where the Director otherwise provides, a tree survey shall be submitted as a part of the project application indicating the number, size, species and location of the drip line of all trees on the property. This survey shall be overlaid on the proposed grading and development plans. The plan shall include a tabulation of all trees proposed for removal.

c) The granting or denial of a tree removal program, which is a part of a development proposal covered by this section, shall be subject to subsection (g)(6) of this section. A separate tree removal permit shall not be required.

3) Deposit Conditions. Prior to the issuance of any grading or building permit for a property where trees are required by this chapter to be saved, the owner or developer shall deposit cash or other acceptable security with the department on a per tree basis in the amount established by the involved development's conditions of approval or approved applications.

4) As required, the City may hold the deposit to guarantee the health of the trees for a two-year period beyond completion of construction. In addition, the applicant or developer may be required to enter into a tree maintenance agreement secured by said deposit/bond by which they agree to maintain said trees in a living and viable condition throughout the term of the agreement. This agreement may be transferred to any new owner of the property for the remaining length of the agreement.

i. Violations.

1) Violations of this chapter are punishable and may be corrected in any manner provided by this code or as otherwise allowed by law. Each tree damaged or removed in violation of this chapter shall constitute a separate offense and a public nuisance, and may be prosecuted as such.

(Sec. 2, Ordinance No. 19-11, adopted September 13, 2011)

9.1.1114 Tree Preservation.
(Repealed by Ordinance No. 19-11, on September 13, 2011)

9.1.1116 Park Dedication.
Refer to Article 2 of this chapter.

9.1.1118 Lots.
a. Division and Consolidation.

1. Conveyance and Division Restriction. No person shall divide or convey a lot or portion thereof if this results in one or more lots violating the area, width, yard, or setback requirements of Article 4 of this chapter.

2. Land Satisfying Requirements. Land used to satisfy the area, width, yard, or setback requirements for one dwelling unit cannot satisfy those requirements for another unit.

3. Small Lot Occupancy. Any lot of less area or width than required by Chapter 4 may be occupied by a single family dwelling and its accessory buildings if: (1) the owner does not own adjoining land to meet those requirements, (2) the yard and setback requirements of Article 4 of this chapter are met, and (3) the lot is delineated on a recorded subdivision map, or its ownership is on record in the County Recorder's Office, on the effective date of the zoning district applicable to the lot.

b. Required Area Reduced by Public Use. If part of a lot or parcel of land having not less than the required area for its land use 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 (80%) of the area required for its land use district, the remainder shall be considered as having the required area, but setback, side yard, and rear yard requirements shall be met. If a lot or parcel of land has an authorized nonconforming status as to area under any City ordinance, the parcel shall retain its nonconforming status if the acquisition for public use does not reduce the remainder below eighty percent (80%) 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.

c. Land on District Boundaries. When any district boundary line divides a lot or parcel of land owned of record as one (1) unit at the time this chapter becomes effective, the regulations applicable to that part of the land lying within the least restricted district shall apply.

9.1.1120 Home Business Permits.

a. Definition. A Home-Based Business is a commercial business or other activity conducted in a residential dwelling by the resident of the dwelling unit, whereby the activity is clearly incidental and subordinate to the use of the dwelling as a residence., and which results in no external alteration to the appearance of the dwelling unit and will not change the residential character of the unit.

b. Purpose. The purpose of the Home-Based Business is to maintain the quality and integrity of neighborhoods, while promoting home-based businesses that meet the above definition. All Home-Based Businesses require a permit.

c. Requirements.

i. The Home-Based Business shall meet the following requirements:

1. Incidental and subordinate to the residence, as determined by Planning staff.

2. A maximum of one employee that is not a resident of the site may be allowed per parcel, as long as the parking requirements are met and off-street parking is not impacted. A maximum of two home-based businesses shall be allowed per parcel; however, no such limit shall apply to Internet-only based businesses allowed per parcel.

3. Delivery vehicles shall be limited to those types of vehicles that typically make deliveries to single-family neighborhoods, including the U.S. Postal Service, UPS, Federal Express, and delivery courier services using light vans. No deliveries by semi-trucks or other vehicles typically associated with service to commercial areas are allowed.

4. No customers or clients shall be served from the residence, with the exception of in-home lessons for educational purposes, not to exceed six

(6) people in total, as long as it does not create a nuisance to neighbors or those uses approved by State law.

ii. The Home-Based Business shall not:

1. Result in significant interior alterations or remodeling of home in connection with the home business. There shall be no exterior indication of the home occupation.

2. Result in outdoor storage or display of merchandise, equipment, appliances, tools, materials, or supplies associated with a Home-Based Business. Storage of flammable or hazardous materials shall not be allowed without Fire Department approval.

3. Result in the installation of advertising signs, window display, or other identification of the Home-Based Business on the premises, except the existence of a sign painted on one vehicle used in the business.

4. Result in the reduction of the required parking for the residence or result in the addition of the use of on-street parking in excess of typical residential use.

5. Result in more than 25% of the total floor area of the dwelling for use by the business, including the use of the garage. Garages may be used as long as the parking requirements can still be met (Two off-street spaces outside of front setback). Existing permitted accessory structures may be used and are subject to the 25% limit (basing the percentage on both units).

6. Be used as a staging area for employees to meet and disperse in company vehicles.

7. Create any excessive noise, vibration, glare, fumes, dust, or electrical interference to adjacent residents during the typical work hours of 7:30 a.m. to 5 p.m. (weekdays), and does not create any detectable noise, vibration, glare, fumes, dust, or electrical interference to adjacent residents beyond the typical work hours.

8. Result in excessive use of, or unusual discharge with respect to one or more of the following utilities: water, sewer, electric, garbage or storm drains.

9. Result in the preparation or packaging of food, otherwise known as a Cottage Food Operation as defined by Health and Safety Code Section 114365 or a Microenterprise Home Kitchen Operation as defined by Health and Safety Code Section 113825, unless the business owner provides the City of Oakley with a full copy of the approved Contra Costa Health Services Registration/Permitting Form for the proposed business. The form shall be dated and approved by an officer of Contra Costa Health Services prior to approval of a City of Oakley Home-Based Business Permit application. Notwithstanding this section, operators of a Cottage Food Operation or Microenterprise Home Kitchen Operation may have customers visit the residence by appointment so that no more than one vehicle will visit at any given time.

10. Result in the generation of vehicular or pedestrian traffic in excess of that associated with the residential use.

11. Result in the use of yard space or any activity outside the main house or accessory building which is not normally associated with a residential use. This includes the storage of fill materials including dirt, rock, bark and similar materials.

12. Result in more than one commercial vehicle being used or stored in conjunction with a single home-based business, up to a maximum of two vehicles for two separately

licensed home-based businesses per parcel. A commercial vehicle shall be any vehicle used in conjunction with the business and/or with external evidence of it being related to the business (i.e., on-vehicle storage of supplies or on-vehicle signage), or as defined in California Motor Vehicle Code ("CMVC") Section 15210. Vehicles such as, but not limited to, dump trucks, cement trucks, tow trucks, equipment trailers, semis or tractor trailers, or as otherwise covered under CMVC Section 15210 shall not be allowed.

13. Result in the repair of vehicles, the use of sprayers, or other similar activities.

14. Other uses which the Community Development Director determines to be inappropriate or incompatible with a residential neighborhood.

15. Result in the sales of firearms and ammunition.

d. Large Lot Residential Sites (R-40 or greater). On parcels Zoned R-40 or greater, minor deviations from the above standards may be granted where it can be demonstrated that the home-based business will not impact adjoining properties and the integrity of the residential neighborhood. For example, a minor deviation may be granted to allow for a limited quantity of outdoor storage on a large lot where the material would not be visible from adjoining properties. In order to process a minor deviation:

1. An applicant shall request a minor deviation as part of the application and demonstrate how the deviation will not negatively impact adjoining properties or the residential integrity of the neighborhood;

2. Minor deviations considered on a case-by-case basis by the Community Development Department;

3. The Community Development Department shall notify adjoining residents and land owners by mail of the request for a home-based business with a minor deviation, including residents and owners to the sides, front, and rear of the subject property;

4. The Community Development Director may approve minor deviations subject to conditions to ensure the minor deviation will not negatively impact adjoining properties or the residential integrity of the neighborhood.

e. Appeal Process. The appeal of a staff decision on a Home-Based Business Permit is required to be submitted within thirty (30) days, and the Zoning Administrator would hear the decision, after noticing to adjacent (including sides, front and rear) residents. The appeal of a Community Development Director decision would be heard by the Planning Commission, and if necessary the City Council.

f. Transitioning of New Requirements.

1. Existing Home-Based Business Permits.

a. Existing permit holders may continue to operate in conformance with the regulations and conditions of approval of their permit as a non-conforming use for one year after adoption of new regulations. An existing permit holder may request to continue to operate beyond the one-year transition period as a nonconforming use based upon the following:

i. The home-based business has been operating in conformance with the regulations in effect when the permit was granted and its conditions of approval; and

ii. The home-based business does not negatively impact adjoining properties or the residential integrity of the neighborhood.

b. The Community Development Director may approve, approve with modifications, or deny a home-based business permit that is under consideration as a non-conforming use beyond the one-year transition period.

c. The nonconforming status of a home-based business permit shall automatically expire if the permit lapses, or if the applicant fails to comply with the regulations and conditions of approval upon which it is granted.

(Sec. 2, Ordinance No. 19-18, adopted November 13, 2018; Sec. 2, Ordinance No. 06-14, adopted May 13, 2014; Sec. 2, Ordinance No. 03-13, adopted February 26, 2013; Sec. 1, Ordinance No. 02-13, adopted February 26, 2013)

9.1.1121 Large Family Child Care Permit.
(Repealed by Ordinance No. 04-20, on March 10, 2020)

9.1.1122 Yards.
Special Yard Requirements. Except as herein provided, every required yard shall be open and unobstructed and shall not be reduced or diminished in area so as to be smaller than prescribed by this ordinance. All uses shall be conducted indoors unless a use permit for outside storage has been approved.

a. Yards on Dual Frontage Lots. Where the front and rear of a lot both have street frontage on approximately parallel streets, no above-ground structure shall be located closer to either street than the distance constituting the required front yard, except on those parcels where street access is restricted by regulations of a public authority, in which case building additions (not accessory structures) may be located within the yard where street access is restricted subject to requirements for rear yards.

b. Yard Exceptions – Garages on Slopes.

1) Wherever the difference in elevation exceeds five feet (5') between the front yard setback

line and:

i. The existing or planned street grade; or

ii. The rear line of a front yard.

2) Wherever the difference in elevation exceeds two-and-a-half feet (2 1\2') between the side street property line and the rear line of a side street yard. Then, the horizontal distance from any garage or parking space in no case shall be less than five feet (5') from the property line or an official plan line. This exception shall not apply on those streets where no on-street parking is permitted along the lot frontage unless a minimum of 2 additional spaces are provided on site in conformance with all required yard and design requirements.

c. Special Yards – Lots with Approved Private or Easement Access. The required minimum yards for a lot that has indirect access via an approved private access or an easement to a public street shall be the same as that required for a lot that has direct access onto a public street.

d. Special Yards – Swimming Pools, Hot Tubs, Spas. In any R or residential P-1 district, swimming pools, hot tubs, and spas may be located in any yard other than the required front or side street yard; provided, that no wall line of a pool, pool equipment, or water feature related to a pool shall be closer than five feet from any property line. Pool equipment with a decibel level of forty-five (45) dB or less achieved through original design or sound dampening enclosures may encroach into the rear, side, and corner side yard setbacks to the property line.

e. Special Yards – Handicap Accessibility. Ramps shall meet setback requirements of each zoning district. Exceptions shall be made for reasonable accommodation where no practical alternative exists and where building/fire code requirements are met.

f. Front Yards – Driveway Width and Coverage.

1) Driveways and parking areas located on residential zoned lots and nonresidential zoned lots with legal nonconforming residential uses shall not result in more than twenty-five (25) feet in width or a width greater than fifty percent (50%) of the width of the required front yard, whichever is greater. Cul-de-sac or pie-shaped lots can exceed the fifty percent (50%) by an additional ten (10) foot wide driveway located in the front yard to allow access to a side or rear yard or for additional front yard parking.

2) For lots with nonparallel side lot lines or irregular lot shapes, "required front yard width" (i.e., "width of the required front yard") shall be calculated by dividing the area of the required front yard by the applicable front yard setback. For all other lots, the width of the front lot line shall be used.

3) Driveways and parking areas shall consist of a wholly contiguous and completely

adjacent area. For the purposes of this subsection, "wholly contiguous and completely adjacent area" shall mean the area exists as a single driveway and parking area, and is not connected by strips of concrete or other improved surface, nor is it separated by landscaped or unimproved areas.

4) Additions to driveways or parking areas shall:

a) Serve the purpose of providing either (1) additional off-street parking between the existing driveway and side property line nearest the existing driveway, or (2) access to a side yard directly adjacent to the existing garage; and

b) Consist of an improved surface of a matching material to the original driveway or a decorative solid material, such as pavers or stamped concrete, subject to the review and approval of the Oakley Planning Division.

c) Not consist of loose materials, including but not limited to gravel, decomposed granite, dirt, or rocks, whether or not such material is combined or sprayed with a bonding agent.

5) Notwithstanding subsections (f)(3) and (4) of this section, for single-family homes, a second curb cut is permitted on lots that are zoned R-15, R-20, R-40, AL, or P-1 with minimum lot sizes of at least fifteen thousand (15,000) square feet, and where subsection (f)(1) of this section is met. For homes with legally established second curb cuts, a second driveway may be installed, subject to the maximum width allowances of this subsection, as measured in conjunction with the main driveway. If the second driveway is a ribbon-style driveway, the width of ribbon driveway shall be measured from the outside edges of each strip, and include any areas in between the strips.

6) All driveways and parking areas shall only be accessible from legally established curb cuts and/or driveway approach aprons.

7) Nonpermitted driveways and parking areas that were installed prior to June 1, 2018 (e.g., detached second driveways on lots zoned R-6 through R-12 or P-1 with minimum lot size under fifteen thousand (15,000) square feet, driveways accessed from ADA ramps or sidewalk curbs), and that do not meet the current code, are allowed to remain in place subject to the following conditions:

a) Nonpermitted driveways that are detached from the main driveway shall not be used for the parking of any type of vehicle, but may be used as access to park a motor vehicle or RV/trailer/boat, etc., in a side or rear yard, outside of a required front yard setback, and behind a minimum six-foot-tall solid fence, so long as the parking of that vehicle is permitted in residential districts and does not violate line of sight safety triangle; and

b) The user of the driveway understands that on-street parking on public streets is not reserved for residents of the adjacent home, and in no circumstance does that resident/owner reserve the right to blockade, cone off, or otherwise reserve access to and from the driveway over a sidewalk or pedestrian ramp, except through the legal parking of a registered street vehicle.

c) Any resident with a nonpermitted driveway shall be required to make application prior to November 1, 2018, that asserts by attestation and documents by photos that the nonpermitted driveway existed prior to June 1, 2018, acknowledges that the nonpermitted driveway was never permitted, that any damage to the sidewalk and/or ADA ramp is the sole responsibility and liability of the resident, and that the resident indemnifies and holds harmless the City for any claim, injury or adverse incident that occurs due to the use of the nonpermitted driveway.

8) All additional driveways and parking areas installed after June 1, 2018, shall be consistent with subsections (f)(1) through (6) of this section, shall be subject to review and approval through Planning Division prior to installation, and shall be subject to issuance of an encroachment permit through the Public Works and Engineering Department for any concrete proposed to be installed within the public right-of-way.

g. Building Projections into Yards.

1) The following projections into yards shall comply with all applicable building code requirements. The following features of permanent structures that are attached to the main building may project into a required yard as follows, except that no projection shall be any closer to three feet from any property line:

i. Cornice, eave, overhang and ornamental feature: two and one-half feet;

ii. Chimney, fireplace or entertainment media pop-out no more than eight feet wide: three feet into a front or rear yard and two feet into a side yard;

iii. Greenhouse and bay window: two and one-half feet into a front or rear yard and one and one-half feet into a side yard;

iv. Porch, fire escape, landing and open staircase: four feet into a front or rear yard and two feet into a side yard;

v. Awning or canopy: four feet;

vi. Uncovered deck, patio, porch and steps, and subterranean garage and basement: four feet into front or rear yard and two feet into side yard if over one and one-half feet above adjacent grade; if not more than one and one-half feet above grade, then the object

may project to within three feet from all property lines;

vii. "Unenclosed" (open on at least three sides) covered deck, covered patio, and carport: subject to Section 9.1.1802, Accessory Structures Development Regulations;

viii. "Partially enclosed" (closed on at least two but no more than three sides) structures, such as an outdoor room (e.g., California room), and covered deck, patio, or porch: four feet into a required rear yard and five feet into required side yard;

ix. "Fully enclosed" (closed on all sides), such as an outdoor room with walls or windows surrounding: subject to main structure setbacks;

x. Decks and balconies located above the first floors, whether supported or unsupported: subject to all setbacks for the main building.

(Sec. 3, Ordinance No. 07-20, adopted May 12, 2020; Sec. 6, Ordinance No. 12-18, adopted August 14, 2018; Sec. 2, Ordinance No. 07-17, adopted May 23, 2017; Sec. 4, Ordinance No. 18-16, adopted August 9, 2016)

9.1.1124 Height.

a. Height: Exceptions.

1. Chimneys, cupolas, flag poles, or similar architectural appurtenances, if attached to a building shall not exceed a height of fifteen feet (15') unless authorized by the Community Development Director or other approval authority for two-story dwellings. If not attached to a building, they shall not exceed twenty feet (20') in height unless authorized by the Community Development Director or other approval authority;

2. Church steeples may be exempted from the height requirements as long as the steeples are in scale with the design of the church/religious facility and surroundings, as determined by the Community Development Director or other approval authority;

3. Height – Accessory Building. Accessory buildings in residential districts shall not exceed fifteen feet (15') in height except: Detached garages may have living space above, in which case the height shall not exceed two stories or thirty feet (30').

9.1.1126 Commercial Screening and Color Schemes.

a. Commercial Screening Requirements. All commercial uses, including the storage of vehicles, equipment, and materials, if not located entirely within a completely enclosed building, shall be entirely enclosed by a tight uniform screen, not less than six feet high. This requirement shall not apply to nurseries or to the display on a street frontage for sales purposes of new or used cars, trucks, trailers, or farm equipment in operative condition. All commercial screening shall be consistent with the City of Oakley Commercial and Industrial Design Guidelines.

b. Outdoor Facilities Screening Requirements.

i. Permit Conditions: Ground for Denial. A use permit for outdoor storage, display, or food service may require yards, screening, or planting areas necessary to prevent adverse impacts on surrounding properties and the visual character of scenic areas. If such impacts cannot be prevented, the Planning Commission shall deny the use permit application.

ii. Exceptions. Notwithstanding the provisions of paragraph (i) above, outdoor storage and display shall be permitted in conjunction with the following use classifications in districts where they are permitted or conditionally permitted.

a. Nurseries, provided outdoor storage and display, are limited to plants only.

b. Vehicle/Equipment Sales and Rentals, provided outdoor storage and display shall be limited to vehicles or equipment offered for sale or rent only. All vehicles and equipment shall be confined to private property of the site.

c. Temporary uses as reviewed and approved by the Community Development Director.

iii. Screening. Except for the use classifications excepted by paragraph (ii) above, outdoor storage and display areas including merchandise, materials or equipment for sale or customer pickup, shall be screened from view of streets by a solid fence or wall. The height of merchandise, materials, and equipment stored or displayed shall not exceed the height of the screening fence or wall. In other districts, screening shall be provided as prescribed by the use permit.

a. Coin-Operated Vending Machines. Each machine located within 300 feet of an R district, except for machines located on the site of a service station, shall be screened from view from public rights-of-way.

c. Mechanical Equipment Screening Requirements. Screening Specifications. Screening materials may have evenly distributed openings or perforations averaging 50 percent of the surface area and shall effectively screen mechanical equipment so that it is not visible from a street or adjoining lot.

1. Mechanical Equipment. Except as provided in paragraph (2) below, all visible exterior mechanical equipment shall be screened from view on all sides. Equipment to be screened includes, but is not limited to, heating, air conditioning, refrigeration equipment, plumbing lines, duct work, and transformers. Satellite receiving antennae shall be screened as prescribed by paragraph (3) below. Screening of the top of equipment may be required by the Community Development Director, if necessary to protect views from an R district. Screening of mechanical equipment shall be subject to review and approval of the Community Development Director.

2. Utility Meters. Utility meters shall be screened from view from public rights-of-way, but need not be screened on top or when located on the interior side of a single-family dwelling. Meters in a required front yard or in a side yard adjoining a street shall be enclosed in subsurface vaults when feasible.

3. Satellite Antennae. The structural base of a satellite antenna, including all bracing and appurtenances, but excluding the dish itself, shall be screened from public rights-of-way and adjoining properties by walls, fences, buildings, landscape, or combinations thereof not less than four feet high so that the base and support structure are not visible from beyond the boundaries of the site at a height-of eye six feet or below.

d. Parking Lot Screening Requirements. These standards shall apply to all commercial, industrial, and institutional parking lots. In locations where mandatory minimum setback or yard requirements are imposed by the Zoning Ordinance, the mandatory setback shall prevail.

1. Views of parking lots shall be substantially screened from adjacent streets. Landscaping, fences, walls, screen structures, buildings or combinations of these can be used to screen views. All required screening shall be provided on-site.

2. Screen planting and/or structures that are taller than 2’-6" in height when measured from adjacent parking lot grade generally will provide adequate visual screening. Solid and continuous screen planting or structures over 3"-0" in height, however, can inhibit visual access that is necessary for security and public safety. Variations in height above 3’-0" such as those provided by occasional trees or widely spaced taller shrubs can be used to ensure both security and screening.

3. Landscape screen planting at grade should maintain a minimum 3’-0" planting width to provide adequate room for effective plant growth. At grade, planter widths that are less than 3’-0" provide inadequate screening and they should only be used in combination with a wall, fence, raised planters or other screen structure.

4. Parking lot screening that is only provided by landscape planting shall be of a material capable of height and density to provide a positive visual barrier within two (2) years of the time of planting. Species, installation sizes and irrigation systems will be evaluated for conformance with this requirement prior to final approval of the landscape plan (See Section 9.1.1108).

5. All required plants shall be maintained in a healthy pest-free condition. Within two (2) months of a determination the Community Development Department that a plant is dead or severely damaged or diseased, the plant shall be replaced by the property owner or owners in accordance with the planting standards approved in the landscape plan.

6. Parking lot screen structures shall be visually interesting. They should be compatible in design, quality, color and materials of the project buildings to promote unified design.

7. In locations where significant views of parking lots are unavoidable due to such features as: driveway entry widths; topography; or building orientation, visually interesting pavement and interior landscape treatments are encouraged. Pavement color, texture and material changes and canopy trees provide visual interest and visually break up large expanses of pavement.

8. All screening and parking lot improvements shall be subject to the review and approval of the Community Development Director.

e. Building Color Requirements.

i. Commercial Downtown District (C-D).

1. Facade Remodels/New Building Construction. When facades are remodeled or new buildings constructed, the adopted Oakley Redevelopment Area Planned Unit District Design Guidelines should be followed in order that the basic design framework of the C-D District in conserved. For buildings where consistency of architectural character has been lost through past actions the preferred design solution is to restore or establish a consistent character. In general, each building should reflect a single type of architecture expressed through consistent use of fenestration, detailing, materials and texture, body color, awnings and roofs regardless of how many businesses occupy the building. Paint colors which are extremely bright, which immediately attract the eye, or which could not be readily included in a "subdued" color palette are not considered appropriate colors. The City strongly encourages the participation of the property owner in the design review process to achieve this end. When plans for remodels are reviewed for approval, the Community Development Department must find the following to be true:

a. The proposed modification contributes to, restores or achieves consistency of architectural character and scale when considering the building or courtyard as a whole.

b. The proposed modification does not incorporate materials, patterns or other design elements that would:

i.) Call attention to the building;

ii.) Create a form of advertising or sign through architectural treatment;

iii.) Renders the storefront unusable by a different business occupant without further remodeling;

iv.) Create a standardized identification with a particular business use which would preclude a variety of future businesses from utilizing the same building in the future.

2. Roofing Materials.

a. Roofing materials shall be selected that are consistent with the design character of the buildings on which they are placed. Roofing materials should be consistent in color and composition on each roof plane of the building and on the roofs of each building within a single complex or courtyard.

ii. Other Commercial Districts (RB; C; BPL; BPH; CR-A; CR-NA).Color schemes for business buildings in all commercial districts, except The Commercial Downtown District (CD), shall be subject to the City of Oakley Commercial Design Guidelines.

9.1.1128 Parking Lot and Storage Area Paving Regulations. – Reserved.
Reserved.

9.1.1130 Reserved
(Sec. 2, Ordinance No. 03-09, adopted January 27, 2009)

9.1.1132 Development Plan
a. Development Plan approval is required for all office, commercial, industrial, multi-family residential development and new subdivisions.

b. Following receipt of a complete development plan application, the Community Development Department will study the request, conduct an investigation of the site, and assess the impact and design consideration of the proposal. The Community Development Director has the discretion to refer the application to the Planning Commission. If the Community Development Director decides to refer the application, a written report will be prepared for the Planning Commission, which will analyze the project and provide a staff recommendation.

Article 12 SPECIAL LAND USES.

9.1.1202 Wireless Communications Facilities.
a. Purpose and Intent. This Section establishes standards for the placement of Wireless Communication Facilities in all zoning districts. It is the intent of this Section to minimize the adverse impacts of such equipment and structures on neighborhoods and surrounding developments by addressing aesthetic impacts in architectural design of facilities and by limiting the height, number, and location of such devices. Wireless communication facilities shall be located, designed and screened to blend with existing natural or built surroundings so as to reduce visual impacts considering the technological requirements of the proposed communication service and the need to be compatible with neighboring residences and the character of the community.

b. Definitions. Definitions, as used in this section:

1. "Antenna" shall mean any system of towers, poles, panels, rods, wires, drums, reflecting discs or similar devices used for the transmission or reception of electromagnetic or radio frequency waves. The distinction is made between the support structure and the antenna (s) mounted thereon.

2. "Building-Mounted Antenna" shall mean an antenna whose support structure is mounted to a building or rooftop equipment screen that transmits or receives electromagnetic signals.

3. "Co-Location" shall mean the location of two or more wireless communication facilities on a single support structure or site otherwise sharing a common location. Co-location shall also include the location of wireless communication facilities with other utility facilities and structures such as, but not limited to, water tanks, transmission towers and light standards.

4. "Wireless Communications Facilities" means a facility that transmits and/or receives electromagnetic or radio frequency waves, including, but not limited to towers, antennas, monopoles support or accessory structures and related equipment. Amateur radio facilities are not included in this definition.

5. "Equipment Enclosure" shall mean a cabinet or other structure used to house equipment associated with a wireless communication facility.

6. "Free Standing Communication Tower" means an antenna support structure that is more than fifteen feet in height from finished grade and is designed to support the antennas of a facility regulated by this chapter. Monopoles and self-supported or guyed structures of lattice construction are examples of this type of structure. Roofmounted or building mounted antennas are extended from this definition.

7. "Monopole" shall mean a single freestanding pole, post, or similar structure that is more than fifteen feet in height that has antennae attached to it.

8. "Public Art Facilities" means wireless communication facilities may be designed within a piece of public art. Public art may be a functional item such as a clock tower, windmill, tree or be some type of attraction such as a historical monument.

9. "Related Equipment" shall mean all equipment ancillary, to the transmission and reception of voice and data via radio frequencies. Such equipment may include, but is not limited to, cable, conduit and connectors.

10. "Roof-Mounted Antenna" means an antenna directly attached or affixed to the roof of an existing structure which transmits or receive electromagnetic signals.

11. "Service Provider" shall mean any authorized provider of wireless communication services.

12. "Stealth Facility" shall mean any wireless communication facility which is designed to blend into the surrounding environment by means of screening, concealment, or camouflage. The antenna and supporting antenna equipment are either not readily visible beyond the property on which it is located, or, if visible, appear to be part of the existing landscape or environment rather than the wireless communications facility. Wireless communication antennae may be integrated into multiple use facilities as part of existing or newly developed facilities that are functional for other purposes, such as ball field lights, shopping center freeway signs, flagpoles, etc. All multiple use facilities shall be designed to conceal the antennae.

c. Where Permitted. Wireless communication facilities shall be permitted on all nonresidential lots and may be located on city-owned or controlled property, subject to the following review and approval process:

i. Permitted use, subject to Community Development Director review and approval:

1. Stealth Facilities.

ii. Permitted use, subject to Design Review by the Planning Commission:

1. Public Art Facilities.

iii. Requiring a Conditional Use Permit:

1. All other forms of Wireless Communication Facilities.

d. Development Standards.

i. General Development Standards. The following development standards shall be met by all new wireless communication facilities.

1. To minimize overall visual impact, whenever feasible. In addition, whenever feasible, service providers are encouraged to co-locate antennas with other facilities such as water tanks, light standards, utility poles, and other utility structures, where the co-location is found to minimize the overall visual impact.

2. All wireless communication facilities shall comply at all times with all Federal Communications Commission (FCC) rules, regulations, and standards, and any other applicable federal, state or city laws or regulations.

3. Sufficient anti-climbing deterrents, including warning signs (ANSI Standard C95.2-

1982 Warning Symbol), shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury.

4. All related equipment, equipment enclosures, antennas, poles or towers shall have a nonreflective finish and shall be painted or otherwise treated to minimize visual impacts.

5. Proposed equipment cabinets/structures and accessory structures shall be maintained in good condition over the term of the permit. This shall include keeping equipment cabinets and structures graffiti-free and maintaining security fences and warning signs in good condition.

6. Antennas, towers, dishes or mountings shall not be used for advertising.

7. Exterior lighting shall not be allowed on wireless communication facilities except for that required for use of authorized persons on-site during hours of darkness or where antenna structure owner or registrant is required to light the antenna structure by the terms of the FAA antenna structure registration applicable to the facility.

8. All freestanding wireless communication towers shall be designed at the minimum functional height required for the coverage area unless it is determined that additional height is needed for architectural reasons or is part of a city approved plan to reduce the impact(s) of future installations.

9. All wireless communication facilities which are not mounted on existing structures shall be (a) screened from the view of surrounding properties, as much as possible and co-located with existing facilities or structures so as not to create substantial visual, noise or thermal impacts; or (b) sited within areas with substantial screening by existing vegetation; or (c) designed to appear as natural features found in the immediate area, such as trees or rocks, so as to be effectively unnoticeable; or (d) screened with additional trees and other native or adapted vegetation which shall be planted and maintained around the facility, in the vicinity of the project site, and along access roads in appropriate situations, where such vegetation is required to screen communications facilities. Such landscaping, including irrigation, shall be installed and maintained by the applicant, as long as the permit is in effect or (e) existing on-site vegetation shall be preserved or improved and disturbance of the existing topography shall be minimized.

ii. Development Standards--Building Mounted Antennas. in addition to all other applicable development standards mentioned in subsection (d.ii.), wireless communication facilities proposed to be mounted or attached to an existing building shall comply with the following:

1. Building-mounted antennas and any associated equipment should be in scale and architecturally integrated with the building design in such a manner as to minimize the visual impact. Screening designs may include locating the facility within attics, steeples,

towers, behind and below parapets, or concealed with an architecturally compatible addition to a building.

2. Colors and materials of the antennas should match the existing building when attached directly to the facade of a building.

3. Wireless communication facility equipment shall be located to minimize visibility from public places. Any visible portion of equipment shall be painted or treated in order to be architecturally compatible with the surrounding buildings and/or it shall be screened, using appropriate techniques, to camouflage, disguise and/or blend into the surrounding environment, as determined by the Planning Commission.

4. Antennas shall be flush-mounted and located below the roof line of the building. Antennas and the associated mounting generally shall not project beyond a maximum of eighteen inches from the face of the building.

iii. Development Standards--Roof Mounted Antennas. In addition to all other applicable development standards in subsection (d.i.), wireless communication facilities proposed to be mounted or attached to the roof of existing buildings shall comply with the following:

1. Roof-mounted equipment and antennas, other than facade antennas, shall be aesthetically compatible with and located as far away from the edge of the building as technically feasible as determined by the Community Development Director. Antennas attached to the building shall be painted or otherwise treated to match the exterior of the building or the antennas' background color.

2. Roof-mounted antennas shall not be placed in direct line of sight of scenic corridors or where they will significantly affect scenic vistas, unless the facilities incorporate appropriate techniques to camouflage, disguise and/or blend them into the surrounding environment.

3. The height of roof-mounted antennas, including the support structure shall not be more than fifteen feet above the roof plate of the building to which they are attached.

4. Wireless communication equipment, if located on the rooftop of buildings, shall be located so as to be minimally visible from public places. If any portion of the equipment is visible, it shall be camouflaged or screened from view, to the fullest extent possible.

iv. Development Standards--Freestanding Wireless Communication Towers. In addition to all other development standards in subsection (d.i.), freestanding wireless communication towers zoning shall comply with the following:

1. Freestanding wireless communication towers shall be located and designed to

minimize visual impacts. When appropriate, monopoles in areas where adverse visual impacts cannot be avoided (as in some commercial areas), shall be camouflaged, disguised and/or blended into the surrounding environment, or disguised as public art, flag poles, telephone poles, light standards, or other visual forms to avoid an adverse visual impact.

2. The smallest available and least visible antennas that provide the coverage objective shall be mounted on towers.

e. Abandonment. All approvals for Wireless Communication Facilities shall be in effect only while the facilities are being operated on a continual basis. When the use is replaced or discontinued for a period of six months, the approvals will lapse, and the operator or property owner shall be required to remove the facility and all associated equipment and restore the property to its original or otherwise acceptable condition, subject to the approval of the Community Development Director.

(Sec. 2, Ordinance No.05-09, adopted February 10, 2009)

9.1.1204 Satellite Antennas and Microwave Equipment.

a. General. Satellite and microwave receiving antennas may be allowed in designated zoning districts within the City, consistent with the development standards established under this section.

b. 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.

c. Definitions. As used in this section:

1. "Microwave Receiving Antenna" shall mean a device designed to receive signals transmitted from ground-mounted transmitters;

2. "Satellite Antenna" shall mean a device designed to receive signals transmitted from orbiting satellites.

d. Satellite Antennas. Satellite antennas that are greater than two feet (2') in diameter or that send signals are subject to the following requirements:

1. Non-residential Satellite Antenna Standards:

i. Satellite antennas are permitted in non-residential areas to send and/or receive signals to/from satellites if the power output of the associated transceiver does not exceed two watts of power and the dish is six feet in diameter or less. The signal intensity must be maintained below applicable ANSI standards.

ii. Satellite antenna(s) in non-residential areas may be roof-mounted provided that they are screened from view;

iii. Satellite antenna(s) installed directly on the ground in non-residential areas shall be located outside of all setbacks. The maximum attainable height of a dish-shaped antenna shall not exceed the diameter of the dish plus three feet (3') to a maximum of fifteen feet (15').

2. Residential Satellite Antenna Standards. In residential areas:

i. Satellite antennas are permitted to receive signals only.

ii. Roof-mounted antennas are not permitted.

iii. Satellite antennas shall be installed directly on the ground. The maximum attainable height of a dish-shaped antenna shall not exceed the diameter of the dish plus three feet (3'), to a maximum of fifteen feet (15').

iv. Satellite antennas shall meet the setback requirements for accessory structures.

v. Only one (1) satellite antenna is permitted on each lot.

vi. The distribution of signals to more than one dwelling unit is permitted, provided the distribution is limited to the same parcel or same project as the antenna site.

3. In any situation where the above provisions do not allow reasonable access to satellite signals, a conditional use permit shall be considered by the Planning Commission with the objective of ascertaining the most aesthetically acceptable alternative siting solution. In no case may the final decision result in denial of reasonable access to satellite signals. The Planning Commission shall consider the following:

i. The decision on the use permit application must provide for a reasonable quality of signal reception, taking into consideration the particular circumstances of the property and its surroundings.

ii. The decision on the use permit application may take into consideration all the alternative site locations and reception solutions on the property and the use permit may be conditional for the purpose of reducing the visual impact of the satellite antenna as seen from adjacent properties or for the purpose of reducing the potential safety or health impacts. Such conditions may include, but are not limited to: partitions, screening, landscaping, mountings, fencing, height of antenna, and site location within the parcel.

4. Exemptions. The following types of antennas are exempt from regulation:

i. Common skeletal-type radio and television antennas in standard configurations used to receive commercial broadcast UHF, VHF, AM, and FM signals.

ii. Solid dish-type antennas with a diameter of less than two feet (2') which are designed to receive signals directly from orbiting satellites.

e. Microwave receiving antenna installation shall comply with the following criteria:

1. A microwave receiving antenna installed in a residential zoning district or residential area of a planned unit district shall comply with the following:

i. The antenna may not exceed eighteen inches (18") in diameter and shall be mounted on a building or roof;

ii. 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;

iii. The design and location of the antenna are subject to approval by the Community Development Director.

2. 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:

i. Installation is prohibited in any required front or street side yard setback area;

ii. 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;

iii. An antenna may not be installed with the use of guy wires;

iv. The antenna shall be placed on the site so as not to interfere with on-site pedestrian or vehicular circulation;

v. 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;

vi. The design and location of the antenna are subject to approval by the Community Development Director.

3. An antenna shall be maintained in an operational state with no structural defects or visible change to the antenna or its structure.

f. 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 conditional use permit, and subject to all requirements of subsection (e)(2).

g. This section supplements and is in addition to other regulatory codes, statutes and ordinances.

9.1.1206 Cemeteries.

a. Non-Exclusive Regulation.

1. Cemeteries may be allowed in designated zoning districts as defined in Chapter 4 within the City, subject to approval of a Conditional use permit application and consistent with the development standards established under this section. No person shall dedicate, establish or maintain any cemetery, as defined in Section 9.1.202(b)(22), or extend the boundaries of any existing cemetery at any place within the Oakley City boundaries without first obtaining a permit as specified in this section;

2. Permit Authorized in Only Certain Land Use Districts. An application may be made and a conditional use permit may be granted for the establishment of a cemetery in land use districts established by Article 3 and Article 4 of this chapter, except that no application shall be accepted or permit granted for premises located in RB, C, and LI districts;

3. 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.

b. Applications.

i. Information Requirements.

1.) Any person desiring to obtain issuance of a permit required by this section shall file a written application with the Community Development Department, which shall administer this section;

2.) The president and the secretary of the corporation who 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:

i. The names and addresses of all persons owning any part of the property proposed to be used as a cemetery;

ii. The names and addresses of the officers and directors of the corporation which

will operate the cemetery;

iii. 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 (½) mile from the property; the elevation in feet above sea level of the highest and lowest points on the property;

iv. 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;

v. 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 statement shall specify the existing amount and include a description of the method to obtain further funding, which will be utilized to ensure that the cemetery will be adequately maintained so as not to become a public nuisance.

3.) If the application is only submitted for authorization of permitted uses under subsection (c)(2) of this section, information required by subsections 4 and 5 need not be submitted;

4.) In addition to the notice required by applicable City 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.

ii. Action by Planning Commission or City Council.

1. In granting any permit, the Planning Commission, or, on appeal, the City 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 Planning Commission or the City Council finds reasonably necessary to protect the health, safety, and welfare of the people of the City and to protect property values and the orderly and economic development of land in the neighborhood;

2. A permit shall be denied if the Planning Commission or, on appeal, the City Council finds that:

i. 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

ii. The establishment, maintenance, or extension will or may reasonably be expected to be a public nuisance; or

iii. 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

iv. 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

v. The proposed cemetery is not consistent with the General Plan of the City or the orderly development and growth of the City.

3. Before taking final action, the Planning Commission or, on appeal, the City 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 Planning Commission or City Council for compliance with these conditions elapses before these conditions are met, the Planning Commission or City Council may deny the permit.

iii. Renewal of Application. If the Planning Commission or the City 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.

c. Uses.

1. Incidental Uses. The following uses of the premises are authorized as incidental uses in connection with the operation and maintenance of a cemetery:

i. An office building for administration of cemetery affairs;

ii. Maintenance sheds or buildings for storage of equipment and supplies used in connection with the maintenance and operation of the cemetery grounds;

iii. Greenhouse for the propagation of plants used in connection with maintenance of the cemetery grounds;

iv. Caretaker's Residence.

2. Uses Permittable. In addition to the uses included within the definition of "cemetery" contained in Section 9.1.202(b)(22), conditional use permits may be granted, at the time of initial application or by subsequent application, pursuant to Article 13 of this chapter or Section 9.1.1602 of this Code for the following uses:

i. Crematory of Calcinatory;

ii. Mortuary;

iii. Sale of Markers;

iv. Sale of Caskets;

v. Sale of Flowers or Decorations;

vi. Manufacture and sale of liners and/or vaults.

9.1.1208 Dry Cleaning Plants.

a. Intent. This section intends to identify the appropriate location of dry cleaning plants and prohibit the establishment of any new dry cleaning plants in any other zone district within the City of Oakley.

b. 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.

c. Permits. Dry cleaning plants, as defined in subsection (b) of this section, shall be conditionally permitted in the RB (Retail Business) District and permitted in the LI (Light Industrial) District. Dry cleaning plants shall not be permitted in any other zone district of the City.

d. 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 Chapter 9.

9.1.1210 Gasoline Service Stations. – Reserved.

Reserved.

9.1.1212 Child Care Facilities. – Reserved.

Reserved.

9.1.1214 Adult Businesses

a. It is the purpose and intent of this section to regulate the operations of adult businesses, which tend to have judicially recognized adverse secondary effects on the community, including but not

limited to increases in crime in the vicinity of adult businesses; increases in vacancies in residential areas in the vicinity of adult businesses; interference with residential property owners' enjoyment of their properties when such properties are located in the vicinity of adult businesses as a result of increases in crime, litter, noise and vandalism; and the deterioration of neighborhoods. Special regulation of these businesses is necessary to prevent these adverse secondary effects and the blighting or degradation of the neighborhoods in the vicinity of adult businesses while at the same time protecting the First Amendment rights of those individuals who desire to own, operate, or patronize adult businesses.

b. The words and phrases used in this Section 9.1.1214 shall employ the definitions found in Section 5.9.104 of Title 5, entitled "Adult Business Licenses and Operational Regulations," unless it is clearly apparent from the context that another meaning is intended. In addition to those definitions set forth in Section 5.9.104, the following definitions shall apply to this Section 9.1.1214.

i. "PARK": A City park so designated on the General Plan or zoning map, or property actually developed by the City for park purposes, or any indoor recreational facility primarily designed and intended for use by minors.

ii. "SCHOOL": An institution of learning for minors, whether public or private, offering instruction in those courses of study required by the Cal. Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes kindergarten, elementary school, middle or junior high school, senior high school or any special institution of education but does not include a vocational or professional institution of higher education, including a community or junior college, college or university. This definition also includes a day care center, as defined in Health and Safety Code § 1596.76.

iii. "CHURCH". An institution which people regularly attend to participate in or hold religious services, meetings and related activities.

c. Adult Businesses as defined in Section 5.9.104, shall be:

i. Located exclusively in the Light Industrial (LI) zone;

ii. Distanced 1000 feet from any residentially-zoned property. The distance between the adult business and the residentially-zoned property shall be measured from the closest exterior wall of the adult business and the nearest property line included within the residential-zone, along a straight line extended between the two points, without regard to intervening structures.

iii. Distanced 1000 feet from a school, church or park, as those terms are defined in Section 9.1.1214(b). The distance between the adult use and the park shall be measured from the closest exterior wall of the adult business and the nearest property line of the school or park, along a straight line extended between the two points, without regard to intervening structures.

iv. Distanced 500 feet from any other adult business, as defined in Section 5.9.104. The distance between adult businesses shall be measured from the front door of each adult use, along a straight line extended between the two points, without regard to intervening structures.

vi. Distanced 300 feet from legal non-conforming residence which exist as the effective date of this ordinance. The distance between the adult business and the residence shall be measured from the closest exterior wall of the adult business and the nearest exterior wall of the residence, along a straight line extended between the two points, without regard to intervening structures.

d. Any person violating or causing the violation of any of these locational provisions regulating adult business shall be subject to the remedies of Section 9.1.1214(e).

e. Any person operating or causing the operation of an adult business on any parcel for which no application for an adult business regulatory license has been filed or granted, or any person violating or causing the violation of any of the locational provisions regulating adult business shall be subject to license revocation/suspension pursuant to Section 5.9.114, a fine of not more than $1,000 pursuant to Government Code sections 36900 and 36901, and any and all other civil remedies. All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued. In addition, to the remedies set forth above, any violation of any of the locational provisions regulating adult businesses is hereby declared to be a public nuisance.

f. The requirements of this Section 9.1.1214 shall be in addition to any other relevant provisions of this Code.

9.1.1216 Oil and Gas Drilling

a. Objectives and Purpose. It is the intent and purpose of this Chapter to regulate the exploration for, drilling, redrilling and recovery of oil, gas and other hydrocarbons, including injection wells, so that these activities may be conducted in a manner that: i) protects public health, safety and welfare; ii) conforms with established codes and regulations; iii) minimizes the potential impact to property and mineral rights owners; iv) encourages well site consolidation; and v) protects the quality of the environment. This chapter provides local regulations for hydrocarbon development. These operations are also subject to state and federal regulations administered by those agencies.

b. Definitions. The terms set forth in this chapter shall have the meanings herein unless it is apparent from the context that a different meaning is intended.

1. "Abandonment" means the permanent plugging of a well and removal of all equipment related to the well, including restoration of the well site in accordance with these regulations and the requirements of the Department of Conservation, Division of Oil, Gas and Geothermal Resources of the State of California.

2. "A.N.S.I." means the American National Standards Institute.

3. "A.P.I." means the American Petroleum Institute.

4. "A.S.T.M." means the American Society for Testing Materials.

5. "Blowout" means the uncontrolled flow of gas, liquids or solids (or a mixture thereof) from a well onto the surface.

6. "Cellar" means an excavation in which the wellhead is located.

7. "Completion of drilling" operations on a well site is deemed to occur for the purpose of this code upon: (1) initiation of disassembly or removal of the drilling rig from any one well on the well site; (2) thirty days after setting of a well head on any one well on the well site; or (3) thirty days after drilling equipment has been removed from a well on a well site. Completion has not occurred if drilling, testing, or remedial operations are resumed on all wells before the end of any thirty-day period.

8. "Derrick" means any framework, tower or mast together with all the appurtenances to such structure placed over a well for the purpose of drilling, raising or lowering pipe, casing, tubing or other drilling, completion production or injection tools or equipment out of or into the well bore.

9. "Desertion" means the cessation of operations at a well where suspension of drilling operations and removal of drilling machinery has occurred or where the operator cannot be located or contacted, and no hydrocarbon development activity has taken place for at least six consecutive months, or hydrocarbon development equipment or facilities have been removed and no activity has taken place for at least two consecutive years, unless the D.O.G.G.R has granted an extension of time pursuant to D.O.G.G.R. regulations. This definition does not apply to observation wells.

10. "Division of Oil, Gas and Geothermal Resources" or "D.O.G.G.R" means that division of the Department of Conservation of the state of California.

11. "Drill" or "drilling" means to bore a hole in the earth for the purpose of completing a well, exploration or testing. Drilling includes all operations through the removal of the drilling equipment from the well site.

12. "Dwelling" means any building or portion thereof providing living facilities for one or more persons, including permanent provisions for sleeping, eating, cooking and sanitation, and includes both single-family and multiple-family residential facilities.

13. "Gas" means the gaseous components or vapors contained in or derived from petroleum

or natural gas.

14. "Grade" (adjacent ground elevation) means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the structure and the property line or, when the property line is more than five feet from the structure, between the structure and a line five feet from the structure. Grade does not include the areas within a well cellar or other subgrade vault or chamber when used in reference to restoration of a well site to pre-existing or original grade.

15. "Hazardous well" means an oil or gas well that presently poses a danger to life, health, or natural resources as determined by the D.O.G.G.R under the provisions of the public resources code.

16. "Hydrocarbon development" means and includes oil or natural gas exploration, drilling, extraction and development, production, storage, transmission and treatment activities.

17. "Idle well" means a well for which production has been suspended for a minimum of five consecutive years, except any well being held for future programs, including those being retained for use under a secondary or tertiary recovery plan or for disposal, which has been approved by the D.O.G.G.R but has not been abandoned or deserted as defined in this code and by the D.O.G.G.R. This definition does not apply to observation wells.

18. "Lessee" means the party possessing the right(s) to drill and engage in hydrocarbon development of oil, gas or other hydrocarbons from the subsurface of land with said right(s) being specifically conveyed by written oil, gas, mineral or surface leases.

19. "Lessor" means the party owning an interest in and to any oil, gas or other hydrocarbons as may be produced from a tract of land who has conveyed the right(s) to drill, develop and produce said substances to another party (lessee) by a written oil, gas, mineral or surface drilling rights lease. This party may or may not be the surface owner.

20. "Maintenance" or "maintain" means the upgrading, repair, cleaning, upkeep and replacement of parts of a structure and equipment. Maintenance of a structure does not alter or lessen the character, strength, or stability of the structure.

21. "N.F.P.A." means the National Fire Protection Association.

22. "Noise sensitive receptor" means and includes a land use associated with human activities which is particularly sensitive to noise. Examples of noise sensitive receptors include hospitals, libraries, schools, residential uses, and those uses deemed noise sensitive by the City Council or Planning Commission.

23. "Observation well" means a well bore for the purpose of observing petroleum reservoir

characteristics, including but not limited to, temperature, saturation, pressure, and fluid movement, as recognized by the D.O.G.G.R.

24. "Operator" means a person, including corporations, partnerships and associations, whether proprietor, lessee, contractor, or agent or officer of the same, in charge of or in control of the drilling, maintenance, and operation of a well or wells as shown on the permit application.

25. "Petroleum" means and includes any and all hydrocarbon substances found in a natural state, including but not limited to crude oil, natural gas, natural gasoline, and other related substances.

26. "Petroleum lease" means a property right, with respect to which a lessee enjoys the right to drill, develop, produce and possess petroleum resources for a determinable period. May also be referenced as a subsurface lease or mineral rights lease.

27. "Public assembly" refers to a building, structure or site, or portion thereof, for the gathering together or accommodation of fifty or more persons for such purposes of deliberation, education, worship, entertainment, lodging, medical care, amusement, drinking and dining, or awaiting transportation.

28. "Redrilling" means any drilling operation, including deviation from original well bore, to recomplete the well in the same or different geologic zone, excluding sidetracking.

29. "Remedial" means any work on a well, other than drilling or redrilling.

30. "Reserved site" means the land reserved in accordance with Section 9.1.1216(i)(c) as part of a rezoning, subdivision or other development for future drilling and/or hydrocarbon development operations.

31. "Sidetracking" means drilling that is initiated within a previously existing well bore, which then deviates from that well bore with the objective of recompleting a well in the same or different geologic zone. Sidetracking does not include drilling involving substantial deviation from the original well bore.

32. "Sump" means a lined or unlined, covered or uncovered excavation pit which holds petroleum or other liquids incidental thereto, or solids associated with hydrocarbon development.

33. "Tank" means a structure or container, with a minimum volume of sixty gallons, used in conjunction with either the drilling or production of a well used for holding, storing, or treating liquids or solids, or otherwise associated with hydrocarbon development.

34. "Uniform Building Code" or "U.B.C." means the most recent edition of the Uniform

Building Code as adopted by the City of Oakley.

35. "Uniform Fire Code" or "U.F.C." means the most recent edition of the Uniform Fire Code as adopted by the City of Oakley.

36. "Well" means any hole drilled into the earth for the purpose of exploring for or producing oil or gas; injecting fluids or gas for stimulating oil or gas recovery; repressuring or pressure maintenance of oil or gas reservoirs; disposing of oil field waste fluids associated with hydrocarbon development; seismic testing associated with hydrocarbon development; or any hole drilled into the earth within or adjacent to an oil or gas pool for the purpose of observation of subsurface conditions.

37. "Well servicing" means and includes remedial or maintenance work or work performed to maintain or improve production from an already producing facility.

38. "Well site" means that surface area used for oil or gas drilling or extraction operations, for injection purposes in enhanced petroleum recovery operations after drilling is completed and oil and gas recovery activities following completion of drilling or redrilling of a well. A well site may include one or more wells.

c. General.

1. Hydrocarbon development, and any accessory or ancillary equipment, structure or facilities thereto, is conditionally permitted in the following zoning districts, subject to the identified development requirements. Distance shall be measured from the nearest well:

Applicable Zoning Districts	Development Requirements	Distance Requirements
(R), (M), (DR), (AL) (A-4)	Class 1 Permit (Residential/Open Space) CUP Design Review	Conditionally permitted over 150 feet from a residence. Not permitted 150 feet or less from a residence.
(C), (RB), (BP), (CR)	Class 2 Permit (Commercial) CUP Design Review	Conditionally permitted: (1) Over 150 feet from a dwelling unit (other than a caretaker or night security dwelling on the same

		parcel); (2) Over 150 feet from a commercial structure that provides goods or services to customers on site; (3) Over 150 feet from a place of public assembly, except a public park; Not permitted 150 feet or less from a residence, commercial structure (as described above) or place of public assembly, except a park.
(LI), (UE) (P)	Class 3 Permit (Industrial) CUP Design Review	Conditionally permitted: (1) Over 150 feet from a dwelling unit (other than a caretaker or night security dwelling on the same parcel); (2) Over 150 feet from a place of public assembly; Not permitted 150 feet or less from a residence or place of public assembly (as described above).
(LI), (UE)	Class 3 Permit CUP Design Review	Conditionally permitted: (1) Over 150 feet from a dwelling unit (other than a caretaker or night security dwelling on the same parcel); or (2) Over 150 feet from a place of public assembly except a public park; or Not permitted 150 feet or

		less from a residence or place of public assembly (as described above).
(P-1) (SP-1)		Permit depends on type of use specified in the preliminary or final development plan for the district. ** If the preliminary or final development plan allows for mixed use development, the MORE RESTRICTIVE class of permit shall be required.

2.) If the General Plan and Zoning Ordinance conflict as related to the provisions of this Chapter, the General Plan shall control.

d. Permits Required.

1. No person shall drill or engage in hydrocarbon development without first obtaining the required conditional use permit. Applications for conditional use permits shall be made in writing to the Community Development Director pursuant to Section 9.1.1604 of this Code. Each operator that obtains a conditional use permit under this Section is required to obtain a City of Oakley business license.

2. In P-1 and SP-1 zoning districts, hydrocarbon development operations shall require the class of conditional use permit for the type of use specified in the preliminary or final development plan for the district, whichever has been adopted. If the preliminary or final development plan allows for mixed use development, the more restrictive class of permit shall be required.

e. Permit Application, Modification, Transfer, Termination, Revocation and Exemption

1. Hydrocarbon development may not commence until a conditional use permit is granted. A conditional use permit may include requirements and limitations in addition to those set forth in this Chapter. Any condition set forth in the development regulations or imposed by this Chapter and conditions of the conditional use permit, may be modified at the request of the permit applicant or holder of the conditional use permit as long as there is no material detriment to the public health, welfare or safety of persons and property located within a reasonable distance of such a well. The permit applicant or holder of the conditional use permit shall present evidence in support of any modification to any development regulation or condition imposed by this Chapter. City may contract with experts and other professionals to

review any requested modifications. The applicant or holder shall bear all costs related to the City's contracting for such review as part of the application.

2. An applicant for a conditional use permit shall, in the required CUP application, provide an estimate of the expected productive life of the well site. An applicant may apply for a CUP up to the total estimated productive life of the well site; the CUP may only be granted for that term. The applicant may thereafter apply for an unlimited number of one-year extensions.

i. The Community Development Director may administratively approve such extensions as long as the applicant has complied with the conditions of the CUP and the provisions of this Chapter.

ii. The Community Development Director may refer the extension request to the Planning Commission if the Community Development Director has recorded any violations of the CUP or to the provisions of this chapter. The Planning Commission or Community Development Director may grant an extension request if satisfied that the applicant has corrected all recorded violations and agrees in writing to make a good-faith effort to avoid and correct any future violations.

3. In addition to the application requirements for a conditional use permit pursuant to the Zoning Code and this Chapter, an applicant shall also submit the following:

a. A plot plan or site development plan drawn at the scale specified by the Community Development Director which includes the following information:

i. Topography and proposed grading.

ii. Location of all proposed well holes and related accessory equipment, structures, and facilities to be installed and any abandoned wells if such are known to exist.

iii. Location of all existing dwellings and buildings used for other purposes, located within three hundred feet of the proposed well holes, identification of the use of each structure, and distances between well holes and existing buildings.

iv. North arrow.

b. A narrative description of the proposed development, including:

i. Acreage or square footage of the property.

ii. Nature of hydrocarbon development activity.

iii. Description of equipment to be used, including height of derrick and screening.

iv. Distance to all existing buildings.

v. Phasing or development schedule.

vi. Security and emergency response provisions.

vii. Information regarding emergency service personnel training requirements

viii. Insurance provisions, including performance bond or other surety to ensure the site is returned to its pre-drilling state.

ix. Description of possible odors, noise, or traffic characteristics related to the well site.

c. A copy of the letter, or other official documentation, from D.O.G.G.R. containing the name and address of the operator of record as shown in D.O.G.G.R. records as of thirty days prior to the date the conditional use permit application is submitted to the Community Development Director or a written statement from D.O.G.G.R. that there is no party of record with D.O.G.G.R. relative to the subject site.

d. A local contact with authority to represent the company for the operator of record or mineral rights holder for hydrocarbon development activities, if applicable.

e. Additional information, conditions and restrictions may be required as part of an application for a Conditional Use Permit, as provided by this Chapter, the Community Development Director, the City Engineer and/or the Planning Commission.

4. Notice of the public hearing shall be expanded to include property owners within three hundred feet of the property line on which the well site and/or reserved site that is the subject of the hearing, the operator of record as shown in D.O.G.G.R. records, and the local contact for hydrocarbon development activities (if applicable).

5. If hydrocardon operations are not commenced within one year from the date of issuance of the conditional use permit, or within any extended period thereof, or if the permitted activities are not continuously conducted thereafter, the conditional use permit shall be void, unless extended. No permit shall expire while the permittee is continuously conducting drilling, redrilling, completing or abandoning operations, or related operations, in a well on the lands covered by such permit, where operations were commenced while said permit was otherwise in effect. Continuous operations are operations suspended not more than thirty consecutive days. If operations are discontinued the permit is void, and the permittee must apply for a new permit, unless the Community Development Director, upon a written request of the permittee, extends the permit for the additional time requested by the permittee for the completion of such drilling program or hydrocarbon development.

6.) The owner or operator of any well permitted by this Chapter shall provide the Community

Development Director, or designee, a copy of the written notice to the D.O.G.G.R. of the sale, assignment, transfer, conveyance, or exchange by the owner or operator of the well within thirty days after the sale, assignment, transfer, conveyance, or exchange. In addition, the owner or operator shall also acknowledge that they have notified the new owner or operator of all existing terms and conditions of the City's permit.

7.) The Community Development Director, may, in writing, suspend or revoke a permit issued under the provisions of this Chapter whenever the permit is issued in error on the basis of incorrect information supplied by the applicant that results in there being a violation of any ordinance or regulation or any of the provisions of this Chapter.

8.) Any City official or employee, for the purpose of reviewing a permit application, transfer of operation/ownership, complaint, compliance or any other investigation pursuant to this Chapter, shall have the right to enter upon the premises for inspection provided they give prior notice of such to the operator.

9.) Well sites and hydrocarbon development activities established prior to the effective date of this ordinance may continue to operate pursuant to permits issued for them, and shall be exempt from the new provisions of this Chapter unless the use loses its legal nonconforming status under Chapter 9 of the City's Zoning Ordinance. In that case, new permits shall be required, as provided for in this Chapter.

10.) The City may impose fees to offset the costs associated with permit processing and condition monitoring.

11.) Attainment of permits pursuant to this Chapter does not relieve the applicant of the responsibility in obtaining permits as required by law from other local, State or Federal agencies. All required Federal, State, County, and City rules and regulations shall be complied with at all times including, but not limited to, the rules and regulations of the following agencies:

a. Division of Oil, Gas and Geothermal Resources;

b. East County Fire District;

c. Contra Costa County Health Department;

d. Regional Water Quality Control Board;

e. Bay Area Air Quality Management District.

f. Permit Development Regulations

f. Permit Development Regulations.

1. Class 3 Permits-Development Regulations.

i. Setbacks. All distances to and from any setback shall be measured from the nearest well. No well shall be drilled nor shall any storage tank and other production related structures be located within:

a. Fifty feet of the right-of-way of any dedicated public street, highway, railroad or private street, or adopted specific plan line of any street or highway;

b. One hundred and fifty feet of any occupied building including dwellings, except buildings incidental to the operation of the well;

c. Twenty-five feet of a storage tank or boilers, fired heaters, open flame devices or other sources of ignition pursuant to the U.F.C.

d. Fifty feet of park area that is open and accessible to the public.

ii. Fire Safety. All drilling and hydrocarbon development activities shall be subject to all fire and safety regulations as required by the City Engineer, or designee, pursuant to the U.F.C. Blowouts, fires, explosions and other life threatening or environmental emergencies shall be reported immediately to the City Engineer, or designee, and D.O.G.G.R.

iii. Division of Oil and Gas and Geothermal Resources. All hydrocarbon development shall be subject to D.O.G.G.R. regulations.

iv. Production and Operations. For producing well sites, only storage of hydrocarbon production, vapor recovery on storage vessels, dehydration and separation of produced hydrocarbon products and other processes associated with production are permitted unless otherwise required by the D.O.G.G.R. All derricks, boilers, and other drilling equipment employed, pursuant to the provisions of this Chapter, to drill any well hole or to repair, clean out, deepen, or redrill any completed well shall be removed within ninety days after completion of production tests following completion of such drilling or after abandonment of any well, unless such derricks, boilers, and drilling equipment are to be used within a reasonable time, as determined by the City Engineer, or designee, for the drilling of another approved well(s) on the premises.

v. Signs. Signs relating to hydrocarbon development shall be limited to directional and warning signs, and signs for identification of wells and facilities as required by the U.F.C. and D.O.G.G.R. to ensure employee and public safety.

vi. Sanitary Facilities. Sanitary toilet and washing facilities shall be installed and maintained at any well site and/or hydrocarbon development operation where personnel

are stationed pursuant to the County of Contra Costa Health Department.

vii. Equipment Storage. There shall be no storage at the well site of material, equipment, machinery or vehicles which is not intended for prompt use in connection with hydrocarbon development. Any equipment or machinery not used for a consecutive period of more than sixty days shall be removed from the site unless a longer period is approved by the City Engineer, or designee, or the zoning district in which it is located permits such storage.

viii. Derricks. Drilling derricks, if idle for a consecutive period of more than sixty days, shall be lowered and removed from the site unless a longer period is approved by the City Engineer, or designee. Any derrick used for servicing operations shall be of the portable type, unless proof is provided that the well is of such depth or has some other characteristics such that a portable type derrick will not properly service such well. In that instance, the City Engineer, or designee, may approve the use of a standard type of derrick.

ix. Grading and Drainage. Unless otherwise required by the State Department of Fish and Game or the U.S. Fish and Wildlife Service for those areas that they deem environmentally sensitive, well sites, including vehicle parking and maneuvering areas, shall be graded in a manner so that ponding will not occur. Normal wetting or other dust control procedures shall be employed throughout the grading period to control dust. Upon completion of grading, the site shall be compacted and all graded surfaces either paved, covered with gravel of aggregate base, treated with a dust binder, or other method approved by the City Engineer. The Regional Water Quality Control Board may have some jurisdiction relative to drainage and water quality.

x. Waste. Drainage containing drilling muds, cuttings, wastewater, waste oil, grease and other oilfield wastes found to be hazardous associated with drilling and/or hydrocarbon development including servicing, shall not be discharged into or upon any streets, canals, storm drains or flood control channels. These wastes shall be contained in leak-proof containers, or other method as approved by the State Regional Water Quality Control Board, to prevent contamination of potable groundwater supplies and storm drainage waters. Waste areas shall be cleaned at intervals as required by the City Engineer with all wastes disposed of at an appropriate authorized disposal site as regulated by the state of California. Facilities for disposal of nonhazardous oilfield liquid waste, production water and USEPA Class II wastes are considered an accessory facility only if the facility complies with the following:

a. The nonhazardous oilfield liquid waste or production water is produced and disposed of within the same designated oilfield; or

b. The nonhazardous oilfield liquid waste or production water disposed of outside the designated oilfield of origin is produced by and disposed of solely and only by the same individual, corporation, or entity.

xi. Light and Glare. Lighting shall be limited to that necessary for safety and security purposes and shall be directed away from adjacent properties and road rights-of-way. All flares shall be shielded from adjacent properties and road rights-of-way.

xii. Blowouts. Protection against blowouts shall be provided in accordance with the D.O.G.G.R. and U.F.C.

xiii. Storage Tanks. Storage tanks shall be in accordance with the D.O.G.G.R. and U.F.C. Whenever oil or gas is produced into and shipped from tanks located on the premises, such tanks shall be adequately screened as specified in the approval of the conditional use permit and the requirements of D.O.G.G.R.

xiv. Height. The height of all pumping units, excluding derricks, shall not exceed a height of thirty-five feet. All other structures shall be regulated by the zoning district in which they are located. All heights of structures shall comply with Part 77 of the Federal Aviation Regulations of the Federal Aviation Administration, Department of Transportation, or any corresponding rules or regulations of the Federal Aviation Administration, as amended.

xv. Site Condition. The well site and all associated structures shall be maintained in a neat and clean condition at all times. Proven technological improvements generally accepted and used in drilling and hydrocarbon development shall be employed as they become available if they are cost effective in reducing nuisances or annoyances. Pumping units and storage tanks shall be painted. Pumping wells shall be operated by electric motors or muffled internal combustion engines. Structures shall be screened as specified in the approval of the conditional use permit.

xvi. Air Quality. Flaring, venting and odor control shall be subject to the regulations of the Bay Area Air Quality Management District, D.O.G.G.R. and U.F.C.

xvii. Building Permits. Building permits, as required by the City building official, shall be secured for all permanent structures to be used in connection with the production and processing of hydrocarbon or related substances in conformance with the U.B.C. Electrical permits shall be required for all electrical connections for drilling and/or pumping units if electrical motors are utilized.

xviii. Vibration. Vibration from equipment shall not create a nuisance or hazard to nearby land uses.

xix. Site Restoration. Site restoration shall commence within ninety days upon completion of all hydrocarbon development activities or upon abandonment of the well site.

a. Before final abandonment, all hydrocarbon development equipment shall be removed from the site. Fences shall be dismantled, all signage removed, and the site regraded so as to break up impermeable surfaces and to restore the site as nearly as practicable to a uniform grade. Waste cleanup shall be to the satisfaction of the Contra Costa County Department of Environmental Health and other regulatory agencies of jurisdiction. The site shall be restored to the surrounding condition, or to the satisfaction of the State Department of Fish and Game or U.S. Fish and Wildlife Service for those areas that they deem environmentally sensitive. Site restoration activities shall be completed within ninety days of commencement. Failure of permittee to comply with the site restoration within a period of ninety days following the termination of any oil or gas exploration activity shall be called to the attention of the permittee by a registered letter addressed to permittee at the permittee's address as shown on the permit application. If, at the end of thirty days after mailing of such letter no steps have been taken to comply with said provisions of this section, the City shall proceed to effect said restoration. Permittee shall be liable for all costs incurred by the City and no additional permit shall be issued to a permittee until payment of all costs has been made. The City may recover such costs by filing a lien on the property.

b. Well abandonment will be conducted in accordance with the regulations of the D.O.G.G.R. To the extent D.O.G.G.R. regulations do not address specific issue or conflict with Section 9.1.1216(f)(xix)(a) of this Code related to site restoration after well abandonment, the requirements of Section 9.1.1216(f)(xix)(a) shall apply.

xx. Floodplain Development. The City Engineer, or designee, shall coordinate with the City building official to ensure wells drilled in the primary or secondary floodplain are consistent with the City's involvement in the National Flood Insurance Program and with the requirements of the State Department of Water Resources and Regional Water Quality Control Board.

xxi. Vehicles. All vehicle parking and maneuvering areas shall be treated and maintained with a dust reducing material consistent with regulations of the Bay Area Air Quality Management District and to the satisfaction of the City Engineer.

xxii. Design Guidelines. Screening and landscaping shall be installed as specified in the approval of the conditional use permit and the D.O.G.G.R.

2. Class 2 Permits-Development Regulations.

a. Class 3 Requirements. In addition to the following development regulations, Class 3 permit development regulations set forth in Section 9.1.1216(d)(1) shall apply to all Class 2 permits.

b. Frontage Improvements. Hydrocarbon development subject to a Class 2 permit shall comply with the requirements of Chapter 6.3 of the City of Oakley Municipal Code.

c. Noise. Noise levels from any hydrocarbon development activities shall not exceed sixty-five dB(A) CNEL at the property line of a noise sensitive receptor, except in a case of emergency. Exterior noise levels generated by hydrocarbon development shall be monitored as required by the City building official to ensure conformance to the noise level standards. The costs of such monitoring shall be borne by the operator conducting such operation. Records of the results of monitoring shall be maintained and provided to the City building official upon request.

d. Pipelines. Pipelines utilized for all hydrocarbon development operations shall be buried a minimum of three feet below grade.

e. Design Guidelines. Screening and landscaping shall be installed as specified in the approval of the conditional use permit and per the D.O.G.G.R.

3. Class 1 Permits-Development Regulations.

a. Class 3 Requirements. In addition to the following development regulations, Class 3 permit development regulations set forth in Section 9.1.1216(d)(1) shall apply to all Class 1 permits.

b. Design Guidelines. Screening and landscaping shall be installed as specified in the approval of the conditional use permit and per the D.O.G.G.R.

c. Frontage Improvements. Hydrocarbon development operations subject to a Class 1 permit shall comply with the requirements of Chapter 6.3 of the City of Oakley Municipal Code.

d. Vehicle Routes. Vehicles associated with hydrocarbon development in excess of three tons shall be restricted to those public roads specified by the City Engineer. The City Engineer, upon designating such roads, shall consider the property owner and mineral rights owners' plans and agreements that may already designate which roads shall be used hydrocarbon development operations.

e. Noise. No hydrocarbon development operations shall produce noise at the property line of a noise sensitive receptor in excess of the following standards, with respect to these basic reference levels:

Basic Reference Levels	dB(A)
7:30 a.m. to 5 p.m.	55 dB(A)
5 p.m. to 7:30 a.m.	50 dB(A)

i. Noise measurements and acoustical analysis shall be conducted by a qualified acoustical consultant experienced in the fields of environmental noise assessment and architectural acoustics. All costs associated with said measurements and analysis shall be borne by the permittee. Frequency of monitoring shall be determined by the Planning Commission.

ii. All parts of a derrick above the derrick floor including the elevated portion thereof used as a hoist shall be enclosed with fire-resistive soundproofing material. Such soundproofing shall comply with accepted A.P.I. standards and shall be subject to fire district regulations. All doors and similar openings shall be kept closed during drilling operations, except for ingress and egress and necessary logging, testing and well completion operations. Alternative materials or methods of soundproofing may be used, provided that such alternatives have been approved by the Planning Commission. The Planning Commission may approve any such alternative if they find that the proposed material and method have equal sound proofing properties and fire resistive qualities to the aforesaid specifications. The Planning Commission may require the submission of evidence to substantiate any claims that may be made regarding the use of such alternatives.

f. Pipelines. Pipelines utilized for all hydrocarbon development operations shall be buried a minimum of three (3) feet below grade.

g. Abandoned and Idle Wells.

1. Abandoned Wells. The surface area of a well site shall be returned to its natural condition including but not limited to cleaning all oil, oil residues, drilling fluids, muds and other substances; leveling, grading or filling of sumps, ditches, and cellars including removal of all lining materials to the satisfaction of the D.O.G.G.R. The permittee shall also be responsible for repairing any streets, sidewalks or other public property that may have been damaged in connection with any operation on the site, except for ordinary wear and tear of said improvements, to substantially the same or better condition as existed before operations commenced as determined by the City Engineer.

2. Idle Wells. Whenever a well becomes idle as defined in this Chapter, the City Engineer, or designee, shall send notice thereof by registered mail, to the surface owner, mineral rights owner and lessee of land as shown on the latest equalized assessment roll of the county, and permittee, that a request to abandon the well will be sent to the D.O.G.G.R. unless operations

are resumed or that the operator provides verification that the well is under the D.O.G.G.R.'s idle well program. If there is no response to said notice within ninety days of the receipt of the notice, or the extension of time expires, the City Engineer, or designee, shall request the D.O.G.G.R. to commence abandonment proceedings.

3. Deserted Wells. As defined in this chapter, the City Engineer, or designee, may request that the D.O.G.G.R. commence abandonment proceedings.

h. Filing Subdivision Maps.

Every person submitting a tentative or parcel map shall also submit two (2) sets of postage prepaid unsealed envelopes addressed to all mineral owners and lessees of record appearing on the title report, as shown in the D.O.G.G.R. records as operator of, who have not waived their right of surface entry underlying the subdivision. The applicant shall submit a copy of the letter from D.O.G.G.R. identifying the operator of record, if any, with the subdivision application. The letter from D.O.G.G.R. shall be dated no more than 30 days prior to the subdivision application submitted and shall list said name of operator of record and their addresses as shown in D.O.G.G.R.'s records or a written statement from D.O.G.G.R. that there is no party of record with D.O.G.G.R. relative to the site. The City may use all materials and information submitted with the tentative or parcel map application to notify any and all owners and lessees of existing mineral rights, and/or all oil/gas drilling, and/or production activities within the area proposed to be subdivided, of the tentative or parcel map application.

i. Development encroachment in petroleum areas.

1.) On-Site Petroleum Facilities. If a developer proposes to subdivide, rezone or otherwise develop property that contains existing hydrocarbon development operations including disposal wells, the developer shall provide a plan showing how all existing hydrocarbon development related facilities will be protected and integrated into the proposed development. The developer shall provide a written response from the existing operator of record as shown in D.O.G.G.R. records or local contact with authority to represent the company for the operator of record or mineral rights holder for hydrocarbon development regarding the submittal of the application. If an existing operator of record as shown in D.O.G.G.R. records or local contact with authority to represent the company for the operator of record or mineral rights holder for hydrocarbon development fails to provide a written response within 90 days from the date of a certified notice requesting the same, the developer may provide its good faith efforts to obtain a written response. The proposed subdivision map, rezoning application, development plan, and/or other application materials shall show an existing or a reserved site. The City may approve a subdivision that encroaches into setbacks provided for in Section 9.1.1216(f) or distance requirements provided for in Section 9.1.1216(c) if the subdivision includes a phasing plan to coordinate the occupancy of units with the cessation of hydrocarbon development operations and abandonment of the wells. Any buildable lot

containing an area which may not be built upon because of development standard compliance of the hydrocarbon development facilities shall be encumbered by the developer with a deed restriction specifying the area so encumbered and identifying the name and location of the well causing the encumbrance. If a final map is required, the subdivider shall record a covenant affecting all real property within the subdivision of the petroleum facilities. Said covenant shall disclose the existence and location of the hydrocarbon development facilities. The encumbrance or covenant shall be approved by the City Attorney prior to recordation. The covenant shall be recorded concurrently with the final map.

2.) Abandoned Wells. Tentative maps, planned development and other development plans submitted to the City shall show the location of all wells drilled on the property. Prior to development of an area, any well shown as abandoned shall be accompanied by written verification from the D.O.G.G.R. that the well was properly abandoned pursuant to their regulations. Any well thereafter abandoned shall also be accompanied by written verification from the D.O.G.G.R. Development shall be designed such that the City building official is satisfied that no structure will be built within ten feet of any well that has been properly abandoned pursuant to D.O.G.G.R. requirements. Any lot or parcel containing an abandoned well shall be encumbered with a deed restriction specifying the exact location of such well and any restrictions or limitations related to future construction on said lot or parcel. Said encumbrance shall run with the land and be approved by the City Attorney prior to recordation. If a final map is required, said encumbrance shall be recorded concurrent with the final map. The D.O.G.G.R., at their discretion, may also require that any abandoned well be uncovered, tested for leakage, require remedial work on leaking wells, and accurately located on the final map before said map is recorded.

3.) Reserved Site. Lands may be reserved as part of a rezoning, subdivision or other development for future hydrocarbon development operations as reserved sites. Such sites shall be no less than two net acres in size and have a minimum lot frontage and width of three hundred feet and configured so that the proposed development and hydrocarbon development activities can be adequately buffered from one another. Development plans shall provide for adequate ingress and egress and shall be accompanied with a plan of the ultimate use of the site after abandonment or decision not to pursue hydrocarbon development operations. If a final map is required, the subdivider shall record a covenant disclosing the existence and location of the drilling site. Said covenant shall be recorded to affect all real property within the subdivision. Said covenant shall be approved by the City Attorney and recorded concurrent with the final map. Future hydrocarbon development operations shall be required to acquire necessary permits as well as satisfy all well site development standards pursuant to this chapter.

j. Fees; Terms. All applications for permits under the provisions of this Chapter shall be accompanied by an application fee. No application fee paid under this Chapter shall be refunded. All

original permits and renewals granted under this Chapter shall also require a fee. All permits issued under the provisions of this chapter shall be valid for one year, unless the applicant specifies the expected period of use, to which the applicant shall apply for a permit for up to that term. The Planning Commission may grant a CUP for that term. The applicant may thereafter apply for an unlimited number of one-year extensions. The Community Development Director, in consultation with the City Engineer, may administratively approve such extensions as long as the applicant has complied with the conditions of the CUP and the provisions of this chapter. If the Community Development Director or City Engineer has recorded any violations of the CUP of the provisions of this Chapter, the Community Development Director may refer the extension request to the Planning Commission. The Planning Commission or Community Development Director may grant an extension request if satisfied that the applicant has corrected all recorded violations and will make a good-faith effort to avoid and correct any future violations.

k. Penalties and Enforcement.

1.) It shall be the duty of the City Engineer and Building Official to enforce the provisions of this chapter.

2.) Any structure erected or maintained or any use of property contrary to the provisions of this chapter shall be, and the same is, unlawful and a public nuisance, and the City Engineer, or Building Official, in conjunction with the City Attorney shall immediately commence actions and proceedings for the abatement, removal and enjoinment thereof in the manner provided by law. Violators will be liable for all enforcement costs incurred by the City.

3.) This chapter may also be enforced by injunction issued out of Superior Court upon suit of the City, or the owner or occupant of any real property affected by such violation.

4.) Every person who engages in hydrocarbon development in violation of any of the provisions of this Chapter shall be guilty of a misdemeanor or punishable by a fine of not to exceed five hundred dollars ($500.00) or by imprisonment in the county jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each day of violation of any of the provisions of this chapter shall be considered to be a separate offense.

5.) Permits issued in conflict with the provisions of this chapter shall be null and void.

6.) Penalties specified in this section are not exclusive.

l. Suspension. Whenever it is shown that any person to whom a permit has been issued has violated any of the provisions of this article, the Community Development Director shall immediately suspend the permit and give the permit holder a written notice in person or by mail of the suspension. The notice must contain a statement of the facts upon which the Community Development Director has acted in suspending the permit. The notice must contain a statement of the appeal procedure contained in the City of Oakley Zoning Code.

9.1.1218 Single Room Occupancy.

a. It is the purpose and intent of this section to regulate the development and operation of single room occupancy land uses. Single room occupancy units provide housing opportunities for lower-income individuals, persons with disabilities, the elderly and formerly homeless individuals.

b. The following definition shall apply to this section.

1) "Single Room Occupancy" shall mean a facility providing dwelling units where each unit has a minimum floor area of one hundred fifty (150) square feet and a maximum floor area of two hundred twenty (220) square feet. These dwelling units may have kitchen or bathroom facilities and shall be offered on a monthly basis or longer.

c. Single room occupancy units as defined in subsection (b)(1) of this section shall be:

1) Located exclusively in the General Commercial (C) Zone District with the approval of a Conditional Use Permit in accordance with Section 9.1.1602. An application pursuant to this section shall be processed concurrently with any other application(s) required for housing development. Final approval or disapproval of an application shall be made by the City Council.

d. The following development standards shall be used in conjunction with the General Commercial (C) Zone District standards for any single room occupancy development. In addition, the application for a single room occupancy project shall also comply with Section 9.1.1604.

1) Unit Size. The minimum size of a unit shall be one hundred fifty (150) square feet and the maximum size shall be three hundred fifty (350) square feet, which may include bathroom and/or kitchen facilities.

2) Occupancy. An SRO unit shall accommodate a maximum of two persons.

3) Common Area. A minimum of ten (10) square feet for each unit or two hundred fifty (250) square feet, whichever is greater, shall be provided for a common area. All common area shall be within the structure. Dining rooms, meeting rooms, recreational rooms, or other similar areas approved by the Community Development Director may be considered common areas. Shared bathrooms, kitchens, janitorial storage, laundry facilities, and common hallways shall not be considered as common areas.

4) Kitchen Facilities. An SRO is not required to but may contain partial or full kitchen facilities. A full kitchen includes a sink, a refrigerator and a stove, range top or oven. If a full kitchen is not provided, common kitchen facilities shall be provided with at least one kitchen per floor.

5) Bathroom Facilities. For each unit a private toilet and sink in an enclosed compartment

with a door shall be provided. This compartment shall be a minimum of fifteen (15) square feet. If private bathing facilities are not provided for each unit, shared shower or bathtub facilities shall be provided in accordance with the most recent edition of the California Building Code for congregate residences with at least one full bathroom per every three units on a floor. The shared shower or bathtub facility shall be accessible from a common area or hallway. Each shared shower or bathtub facility shall be provided with an interior lockable door.

6) Closet. Each SRO shall have a separate closet.

7) Laundry Facilities. Laundry facilities shall be provided in a separate room at the ratio of one washer and dryer for every ten (10) units, with at least one washer and dryer per floor.

8) Cleaning Supply Room. A cleaning supply room or utility closet with a wash tub with hot and cold running water shall be provided on each floor.

9) Code Compliance. SRO units shall comply with all requirements of the California Building Code.

10) Accessibility. All SRO units shall comply with all applicable ADA accessibility and adaptability requirements. All common areas shall be fully accessible.

11) Tenancy. Tenancy of an SRO shall be a minimum of thirty (30) days.

12) Management. A management plan shall be submitted with the development application for an SRO facility and shall be approved by the City Council. The management plan must address management and operation of the facility, rental procedures, safety and security of the residents and building maintenance. A twenty-four (24) hour resident manager shall be provided for any single room occupancy use with ten (10) or more units. An on-site manager's office shall be provided for any SRO facility with nine or less units.

13) Parking. Parking shall be provided for an SRO facility at a rate of one parking space per unit plus an additional two spaces for the resident manager.

(Sec. 2, Ordinance No. 13-10, adopted September 14, 2010)

9.1.1220 Pawnbrokers and Secondhand Dealers.

a. It is the purpose of these regulations to establish specific standards for pawnbroker, secondhand stores and businesses which purchase and sell secondhand tangible personal property incidental to their primary business (such as a jewelry store which purchases gold/jewelry) to ensure that such businesses are appropriately located and operated so as to not pose a significant threat to the public health, safety, and welfare by curtailing the dissemination of stolen property and facilitating the recovery of stolen property.

b. The following definitions shall apply to this section:

1) "Pawnbroker" is every person engaged in the business of receiving goods, including motor vehicles, in pledge as security for a loan pursuant to Section 21000 of the Financial Code, as amended from time to time.

2) "Secondhand Dealer" shall include any person, firm, or corporation whose business includes buying, selling, trading, taking in pawn, accepting for sale on consignment, accepting for auctioning or auctioning secondhand tangible personal property pursuant to Section 21626 of the Business and Professions Code, as amended from time to time.

3) "Tangible personal property" means all secondhand property including but not limited to: clothing, jewelry, personal property which bears a serial number or personalized initials or inscription which is purchased by a secondhand dealer or pawnbroker; or which at the time it is acquired by the pawnbroker or secondhand dealer bears evidence of having had a serial number or personalized initials or inscription. Tangible personal property also includes new or used motor vehicles received in pledge as security for a loan by a pawnbroker. Tangible personal property does not include new goods or merchandise purchased from a bona fide manufacturer or distributor or wholesaler of such new goods or merchandise, or coins, monetized bullion, or commercial grade ingots of precious metals.

c. Pawnbrokers and secondhand dealers as defined in subsections (b)(1) and (2) of this section shall be allowed in the following zone districts as follows:

1) Pawnbrokers shall be located exclusively in the General Commercial (C) Zone District, specifically on properties located along Main Street, west of Empire Avenue, with the approval of a conditional use permit in accordance with Section 9.1.1602. Final approval or disapproval of a conditional use permit application shall be made by the City Council.

a) Pawnbrokers shall not abut any residentially zoned property.

b) Pawnbrokers shall maintain a distance of one thousand five hundred (1,500) feet from a school, daycare, church or park.

c) Pawnbrokers shall maintain a distance of one thousand five hundred (1,500) feet from any other pawnbroker, as defined in this section.

d) The distances as described above shall be measured from the front door of each use, along a straight line extended between the two points, without regard to intervening structures.

2) Secondhand dealers shall be located exclusively in the Retail Business (RB) and General Commercial (C) Zone Districts subject to a Zoning Administrator approval in accordance with

Section 2.4.008.

d. No new pawnbroker, secondhand store, or business which purchases and/or sells secondhand tangible personal property shall be established unless a permit has first been obtained pursuant to Section 9.1.1602 in regards to pawnbrokers and Section 2.4.008 in regards to secondhand dealers.

e. Pawnbrokers, secondhand dealers or businesses which purchase secondhand tangible personal property shall comply with the following development standards:

1) Comply with all applicable local, State, and Federal laws.

2) No person shall obtain a conditional use permit for a pawnbroker, or Zoning Administrator approval for a secondhand dealer or business which purchases secondhand tangible personal property, unless that person first or concurrently obtains a pawnbroker's/secondhand dealer's permit under Chapter 5.12.

3) Hours of Operation. No pawnbroker or secondhand dealer, nor any employee thereof, shall accept any pledge, or loan any money for personal property, or purchase or receive any goods, wares or merchandise, or any article or thing, or in any manner whatsoever engage in or conduct business as a pawnbroker or secondhand dealer between the hours of 7:00 p.m. of any day and 7:00 a.m. of the following day. Businesses which purchase secondhand tangible personal property shall not engage in such activity between the hours of 7:00 p.m. of any day and 7:00 a.m. of the following day.

4) The applicant shall submit a detailed security plan which describes the proposed interior and exterior security measures applicable to the proposed business. The plan shall address issues such as safes to be installed, alarm systems, deployment of any security personnel, funds transportation measures, hours of operation, shift personnel staffing, CCTV applications, type of loss prevention/crime prevention training provided to employees and any other applicable measures.

5) The applicant shall keep a photographed inventory (either digital or hard copy) of all nonserialized tangible property. These records shall be made available at any time to the Oakley Police Department.

6) The establishment shall not engage in any transaction from the following person:

a) Any person under eighteen (18) years of age; or

b) Any person who the licensee knows or has reason to believe has been convicted of burglary, robbery, felony theft, or theft by receiving; or

c) Any person who appears to be under the influence of alcohol or any controlled substance, as defined in state law.

7) The cashier area shall be equipped with a CCTV/Security System with digital recording, playback capability and single image retrieval to aid in criminal apprehension. The recorder should be housed in a secure room away from the cash register/counter area. Recording field should include the cash register area, customer counter area and as a customer is entering/exiting the establishment. Camera(s) focused on the entry/exit should be mounted and angled to capture customers' faces. Camera(s) should be used in conjunction with public view monitor(s) to create public awareness that a video surveillance system is in place and to discourage criminal acts. Recordings shall be maintained for minimum of ninety (90) days.

8) The cashier area shall be equipped with a telephone.

9) The business windows shall not be tinted or obscured in any way, including by temporary or painted window signs, and the interior lighting of the business from the exterior of the business shall remain at adequate levels to clearly see into the business from the exterior of the business.

10) A sign shall be posted in the front of the business indicating that no loitering is permitted per the Oakley Municipal Code.

11) Storage rooms, including roof access doors, maintenance, mechanical, electrical, and other room doors that contain property that may be susceptible to theft, shall be covered by a silent intrusion alarm system. These systems may terminate at the front desk.

12) Any office or room where funds are counted should have a solid core door with a minimum thickness of one and three-quarters inches and should be secured by a deadbolt lock with a minimum throw of one inch.

13) Any delivery and/or receiving door(s) shall be equipped with a peephole/vision panel and a delivery notification system.

14) The premises, while open or closed for business after dark, must be sufficiently lighted by use of interior night-lights.

15) Window signage shall be limited to no more than thirty percent (30%) coverage of window area provided visibility into the building is maintained as stated in Section 9.5.110(a)(11).

f. Any pawnbroker, secondhand store, or business which purchases or sells secondhand tangible personal property legally in existence as of the effective date of the ordinance codified in this section shall have one year in which to bring the business into compliance with this section.

(Sec. 2, Ordinance No. 08-12, adopted September 11, 2012)

9.1.1222 Parole/Probationer Homes.

a. The purpose of regulating parole/probationer homes is to ensure compatibility of such uses with surrounding uses and properties and to avoid or minimize any adverse impacts associated with such uses.

b. "Parole/Probationer Home" means any residential structure or unit, including any hotel or motel except as provided herein, whether owned and/or operated by an individual or for-profit or non-profit entity, that houses two or more parolees/probationers, unrelated by blood or marriage, or legal adoption, in exchange for monetary or non-monetary consideration given and/or paid by the parolee/probationer and/or any individual or public/private entity on behalf of the parolee/probationer, excluding parolees/probationers who reside in an alcohol and/or drug-free recovery home. Notwithstanding this definition or any other provision of the Oakley Municipal Code, hotels and motels with fourteen (14) rooms or less cannot provide transient lodging services or accommodations to more than three parolees during any thirty (30) consecutive-day period regardless of the length of their respective stays; and hotels and motels with fifteen (15) rooms or more cannot provide transient lodging services or accommodation to more than five parolees during any thirty (30) consecutive-day period regardless of the length of their respective stays.

"Parolee/Probationer" means an individual as follows:

1) Convicted of a federal crime, sentenced to a United States federal prison, and received conditional and revocable release in the community under the supervision of a federal probation/parole officer; or

2) Serving a period of supervised community custody as defined by State Penal Code Section 3000 following a term of imprisonment in a State prison or County jail, and is under the jurisdiction of the California Department of Corrections, Division of Adult Parole Operations; or

3) An adult or juvenile sentenced to a term in the California Youth Authority and received conditional and revocable release in the community under the supervision of a Youth Authority parole officer; or

4) An adult or juvenile offender released from County jail or State prison after October 1, 2011, on post release community supervision.

c. Applications for a required conditional use permit to operate a parolee/probationer home shall include at least the following information:

1) Client profile (the subgroup of the population that the facility is intended to serve, i.e., single men, families, etc.);

2) Maximum number of occupants and hours of facility operation;

3) Term of client stay;

4) Support services to be provided on site and projected staffing levels; and

5) Rules of conduct and/or management plan.

d. Site location standards for issuance of the required permit shall be as follows:

1) The use shall be permitted only in the M-9 and M-12 zoning districts;

2) The use shall be generally compatible with surrounding uses;

3) Establishment of the facility is not likely to result in harm to the health, safety or general welfare of the surrounding neighborhood;

4) The facility is located along or near a major arterial with ready access to public transportation;

5) The facility will be accessible to necessary support services;

6) To avoid over-concentration of parolee/probationer homes, there shall be a five thousand (5,000) foot separation between such homes as measured from the nearest outside building walls between the subject use and any other parolee/probationer housing;

7) A parolee/probationer home shall not be located within one thousand (1,000) feet of any other group housing, assisting living facility, a public or private school (pre-school through twelfth grade), day care home, public park, library, business licensed for on- or off-site sales of alcoholic beverages, emergency shelter, supportive housing or transitional housing as measured from any point on the outside walls of the parolee/probationer housing.

e. Operation and development standards shall be as follows:

1) Sufficient on-site parking shall be provided. The precise number of parking spaces required will be determined based on the operating characteristics of the specific proposal. Attention shall be directed to whether clients are driving and the rules pertaining to visitation.

2) Both indoor and outdoor common areas shall be provided on site.

3) All setback standards of the underlying zone shall be met.

4) On-site staff supervision shall be required during all hours of facility operation.

5) Individual client stays shall not exceed one hundred eighty (180) consecutive days.

6) The facility's management shall participate in any residential crime prevention program provided by the City and as required under the permit.

7) A list of client names, on a continuous basis as clients are received, shall be provided to the Chief of Police. The Chief of Police may determine to reject any client being allowed in the home if the client represents an unreasonable risk to public safety.

f. Any parolee/probationer home existing prior to the adoption of this section shall be required to obtain a conditional use permit.

g. Permits shall pertain to each specific location and operator. Any change of ownership of a facility shall require a new permit. A facility which discontinues operations for any period of time shall require a new permit before recommencing operations.

h. Notice of the application for a conditional use permit shall be provided as required in the conditional use permit ordinance, and application fees therefor shall be as established in said ordinance.

i. The ordinances of this code relating to the regulation of smoking tobacco and other products shall apply to parolee/probationer homes.

j. Any conditional use permit issued for a parolee/probationer home may be revoked by the City Council for violations of this section or for otherwise creating a public nuisance. Owners and operators of parolee/probationer homes are also subject to the issuance of administrative citations and the collection of fines for violations, although the absence of an administrative citation does not preclude the remedy of revocation of a conditional use permit.

(Sec. 1, Ordinance No. 04-14, adopted April 8, 2014)

9.1.1224 Check Cashing, Lending and Similar Financial Service Businesses.
"Specialized financial service businesses" means, for the purposes of this section:

a. Any business involved in making "pay day loans," which is a transaction whereby a business defers depositing a customer's personal check until a specific date, pursuant to a written agreement, as provided by California Financial Code Section 23035. The term "personal check" includes the electronic equivalent of a personal check. "Pay day loan" businesses are regulated by the State of California, Department of Corporations, and do not include consumer loans or commercial loans.

b. Any business involved in making "car title loans," which means a short-term loan in which the borrower's vehicle title is used as collateral. The borrower must be the lien holder (owns the vehicle outright). "Car title loans" can be regulated as either consumer or commercial loans by the State of California. The term does not include loans for vehicles regulated by the Federal Trade Commission.

c. Any business involved in "check cashing," which is a commercial land use that generally

includes some or all of a variety of financial services, including cashing of checks, warrants, drafts and other commercial paper serving the same purpose. "Check cashing" business does not include a State or Federally chartered bank, savings association, credit union, or industrial loan company, nor a retailer engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cashes checks or issues money orders for a minimum flat fee not exceeding $2 per transaction as a service to its customer that is incidental to the main purpose or business.

1) The following conditions shall apply only to specialized financial services businesses located in the C (General Commercial) Zoning District:

a) A conditional use permit is required;

b) Shall not be located within a one thousand two hundred fifty (1,250) foot radius of any other specialized financial service business;

c) Windows shall not be obscured by placement of signs, dark window tinting, shelving, racks or similar obstructions;

d) Exterior telephones, security bars and roll-up doors shall be prohibited;

e) All fees and regulations associated with a loan or financial transaction shall be displayed near the cashier/checkstand and be provided to the customer upon checkout;

f) The hours of operation shall be stated in the application and be subject to approval in the conditional use permit. The hours of operation should fall within typical business hours, but in no case shall the business be open past 8:00 p.m.;

g) All business shall be conducted completely inside of the office and the storage of vehicles associated with the car title loan business is explicitly not allowed;

h) Interior and exterior video security cameras shall be installed at the front and rear of the business with full view of the public right-of-way and any area where the operator provides parking for its patrons. The cameras shall record video for a minimum of thirty (30) days and be accessible via the Internet by the Police Department. All video equipment shall be installed to the satisfaction of the Police Chief and the Community Development Department;

i) The operator shall take and maintain thumb prints of all clients who apply for loans, cash advances or other financial services.

(Sec. 1, Ordinance No. 14-14, adopted September 9, 2014; Sec. 1, Ordinance No. 10-14, adopted August 12, 2014)

9.1.1226 Employee and Farmworker Housing.

a. It is the purpose and intent of this section to regulate any employee and farmworker housing as defined below, consistent with California Health and Safety Code Sections 17021.5 and 17021.6. For the purpose of this section, employee and farmworker housing shall not be deemed a use that implies that the employee housing is an activity that differs in any other way from an agricultural use. No conditional use permit, zoning variance, or other zoning clearance is required of this employee housing that is not required of any other agricultural activity in the same zone.

b. The following definitions shall apply to this section:

1) "Farmworker dwelling unit" shall mean housing for up to six agricultural (farm) employees. The accommodations may consist of any living quarters, dwelling, boarding house, bunkhouse, mobile home, manufactured home, recreational vehicle, or travel trailer.

2) "Farmworker housing complex" shall mean agricultural (farm) employee housing with up to thirty-six (36) beds in group quarters and twelve (12) units designed for use by single families or households.

c. Employee and farmworker housing as defined in subsection (b)(1) of this section shall be:

1) Permitted in all residential zones, subject to the same standards and permit requirements as a single-family residence.

d. Employee and farmworker housing as defined in subsection (b)(2) of this section shall be:

1) Permitted in the Limited Agriculture (AL), Agriculture Preserve (A-4) and the Delta Recreation (DR) Zone Districts.

e. Any proposed employee or farmworker housing shall apply for and receive a building permit prior to the occupancy of the structure(s).

(Sec. 2, Ordinance No. 03-16, adopted January 12, 2016)

9.1.1228 Residential Care Facilities.

a. The following requirements apply to residential care facilities for more than six persons as defined by this code. Residential facilities for six or fewer residents shall be treated as a residential use and subject only to the same requirements as any other permitted residential use of the same housing type that are in the same district.

1) The minimum distance from any other residential facility shall be three hundred (300) feet as specified by California Health and Safety Code Section 1267.9(b);

2) At least twenty (20) square feet of usable open space shall be provided for each person who resides in the facility;

3) At least one parking space shall be provided for every two persons who reside in the facility;

4) Residential care facilities shall be licensed and certified by the State of California and shall be operated according to all applicable state and local regulations.

(Sec. 2(D), Ordinance No. 02-16, adopted January 12, 2016)

9.1.1230 Cultivation of Marijuana.

a. Definitions.

1) For purposes of this section, the term "cultivation" shall mean the planting, growing, harvesting, drying, storage of, or creation of products involving, one or more marijuana plants or any part of such plants for any purpose, including for medical or recreational use.

2) For purposes of this section, "marijuana" refers to any type of cannabis plant, including cannabis sativa, cannabis indica, cannabis ruderalis, and any hybrids of different types of cannabis plants.

b. The cultivation of marijuana outdoors is prohibited at all locations, and in all zoning districts, within the City of Oakley. The City shall not issue, approve, or grant any permit, license, or other entitlement for the outdoor cultivation of marijuana.

c. Indoor Cultivation.

1) The cultivation of marijuana indoors is a permitted use in any residential zoning district, provided the cultivation strictly conforms to the requirements of subsection (c)(2) of this section, California Health and Safety Code Sections 11362.1(a)(3) and 11362.2, and any State regulations adopted in accordance with those sections.

2) The indoor cultivation of marijuana shall strictly conform to the following requirements:

a) No person shall cultivate more than six (6) plants indoors within any residence at any time, and no person shall cultivate marijuana on any parcel not improved with a lawful inhabited residence.

b) Marijuana cultivation is permitted only within fully enclosed structures that include solid walls and a solid roof. A fully enclosed and secure structure used for the cultivation of marijuana that is separate from the main residence on a premises must be located in a side yard or back yard of the residence and the side yard or backyard must be enclosed entirely by a solid fence of at least six (6) feet in height and/or the house. In addition, the detached structure must maintain a minimum ten (10) foot setback from any property line or the minimum setback required under any other applicable provision of this Code if such setbacks exceed ten (10) feet. No such structure shall have a roof or ceiling that is

capable of opening or retracting. If such structure is smaller than one hundred twenty (120) square feet in size, no portion of its roof or ceiling shall have opaque or transparent surfaces. If such structure is greater than one hundred twenty (120) square feet in size, any opaque or transparent surface shall be in accordance with the applicable building codes as the City has adopted.

c) Marijuana cultivation areas in a structure shall not be accessible to persons under eighteen (18) years of age. All doors opening into cultivation areas shall be secured by lock and key, padlock, or other security device that prevents unauthorized entry.

d) Marijuana cultivation lighting shall not exceed a total of one thousand two hundred (1,200) watts and shall be shielded to confine light and glare to the interior of the allowable structure.

e) The use of gas products (e.g., CO_2, butane, etc.) or generators for marijuana cultivation or processing is prohibited.

f) No exterior evidence of marijuana cultivation shall be observable from any public right-of-way or adjacent property.

g) Marijuana cultivation shall not occur in any kitchen, bathroom, or bedroom of the residence.

h) Any structure used for marijuana cultivation must have proper ventilation to prevent mold damage and to prevent marijuana plant odors or particles from becoming a public nuisance to surrounding properties or the public.

i) The marijuana cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products, or wastes.

j) Use, storage, or discharge into wastewater facilities shall strictly comply with all rules and regulations adopted by the Ironhouse Sanitation District.

k) Water usage for cultivation of marijuana under this section shall not exceed any limitations imposed by federal, state, or local water restrictions.

l) All lighting, equipment, power sources, and construction associated with the cultivation shall comply with the applicable building, electrical, and fire codes as adopted by the City. Such compliance shall include the requirement to obtain any permit the East Contra Costa Fire Protection District may require for the cultivation.

(Sec. 1, Ordinance No. 11-17, adopted June 27, 2017)

9.1.1232 Donation Bins.

a. Definitions.

1) "City Manager" means the City Manager of the City of Oakley or designee.

2) "Operator" means a person who utilizes or maintains unattended donation bin(s) to solicit donations of salvageable personal property.

3) "Permittee" means the property owner who is issued a permit authorizing placement of unattended donation bin(s).

4) "Property owner" means the person who owns the real property where the unattended donation bin(s) are or are proposed to be located.

5) "Residential district" means R-6, R-7, R-10, R-12, R-15, R-20, R-40, AL, M-9, M-12, M-17, and P-1 (for residential use) districts pursuant to this chapter.

6) "Unattended donation bin" means any unattended container, receptacle, or similar device that is located on any lot within the City and that is used for soliciting and collecting donations of clothing or other salvageable personal property. This term does not include recycle bins for the collection of recyclable material governed or regulated by the Zoning Code or any unattended donation bin located within a building.

b. Permits.

1) It is unlawful and a public nuisance for any property owner or other person to place, operate, maintain or allow unattended donation bins on real property unless the property owner first obtains a permit pursuant to this chapter and the donation bin is placed, operated and maintained in accordance with all provisions in this chapter.

2) The permit application shall be made on a form provided by the City Manager and shall include the following information:

a) The name, address, email, website (if available) and telephone number of the applicant;

b) Written proof sufficient to establish that the operator who will utilize the unattended donation bin is qualified to solicit donations of salvageable personal property pursuant to California Welfare and Institutions Code Section 148.3, as amended;

c) The text of the disclosures that will be made on the unattended donation bin as required by subsection (d)(1)(c) of this section; and

d) The physical address of the property owner’s real property and a drawing sufficient

to indicate the proposed location of the unattended donation bin on the property owner's real property and the size of the proposed unattended donation bin.

3) Each application shall be accompanied by a nonrefundable fee in the amount established by resolution of the City Council. This fee shall be in addition to any fee or tax imposed by the City pursuant to any other provision of this Code.

4) Applications shall be filed with the City Manager.

5) Within sixty (60) days of receiving a completed application, the City Manager shall issue a permit or deny the issuance of a permit.

6) The City Manager shall not issue a permit unless:

a) The applicant has submitted a complete and accurate application accompanied by the applicable fee;

b) The operator who will utilize the unattended donation bin is qualified to solicit donations of salvageable personal property pursuant to California Welfare and Institutions Code Section 148.3, as amended;

c) The proposed location of the unattended donation bin on the property owner's real property is in compliance with all applicable laws.

7) If the City Manager denies an application the City Manager shall state, in writing, the specific reasons for denial.

8) The term of the permit shall expire one year from the date of issuance.

9) No person to whom a permit has been issued shall transfer, assign, or convey such permit to another person.

10) Prior to expiration of the permit, the permittee may voluntarily cancel the permit by notifying the City Manager in writing of the intent to cancel the permit. The permit shall become void upon the City Manager's receipt of a written notice of intent to cancel the permit.

c. Renewal of Permits.

1) A permittee may apply for permit renewal by submitting to the City Manager before the expiration of the permit a renewal application and a nonrefundable renewal fee in an amount set by resolution of the City Council.

2) The City Manager shall either approve or deny the renewal of a permit within sixty (60) days of receipt of the complete renewal application and payment of the renewal fee. The failure of the City Manager to timely act shall constitute approval of the renewal of the permit.

3) The City Manager shall approve the renewal of a permit if he or she finds that no circumstances existed during the term of the permit, existed at the time of submission of an application for renewal, or existed at any time during the review of the application for renewal that are inconsistent with any finding required for approval of a new permit as specified in subsection (b) of this section or that would justify the revocation of the permit as specified in subsection (e) of this section.

d. Requirements and Maintenance.

1) A permittee shall operate and maintain or cause to be operated and maintained all unattended donation bins located in the City as follows:

a) Unattended donation bins shall be maintained in good condition and appearance with no structural damage, holes, or visible rust, and shall be free of graffiti;

b) Unattended donation bins shall be locked or otherwise secured;

c) Unattended donation bins shall contain the following contact information in two-inch type visible from the front of each unattended donation bin: the name, address, email, and phone number of both the permittee and operator;

d) Unattended donation bins shall be serviced and emptied as needed, but at least every thirty (30) days.

2) Unattended donation bins shall be no more than eighty-two (82) inches high, fifty-six (56) inches wide and forty-nine (49) inches deep.

3) The permittee shall maintain or cause to be maintained the area surrounding the unattended donation bin(s) free of any junk, debris or other material and shall be responsible to the extent provided by law for the cost to abate any violation.

4) Notwithstanding any other provision of this code, it is unlawful for any person to place an unattended donation bin in any residential district.

5) Notwithstanding any other provision of this code, it is unlawful to locate any unattended donation bin less than four hundred (400) feet from any other unattended donation bin.

6) Notwithstanding any other provision of this code, it is unlawful to locate more than one unattended donation bin on each parcel of real property.

7) Notwithstanding any other provision of this code, it is unlawful to locate any unattended donation bin on required parking spaces, within drive aisles, or within landscaped areas, or on any undeveloped or vacant property.

e. Revocation of Permit, Removal of Unattended Donation Bins and Liability. The City Manager shall have the right for cause to revoke any permit issued hereunder. Any of the grounds upon which he or she may refuse to issue an initial permit shall also constitute grounds for such revocation. In addition, the failure of the permittee to comply with the provisions of this chapter or other provisions of this Code or other law shall also constitute grounds for revocation of the permit. The City Manager shall provide a written notification to the permittee stating the specific grounds for revocation. Upon revocation, the unattended donation bin shall be removed from the permittee's real property within thirty (30) days and if not removed within this time period, the City may remove, store and dispose of the unattended donation bin at the expense of the permittee. Upon revocation, a permittee shall be prohibited from applying for a permit for a period of one year. Any violation of the provisions of this section is a public nuisance subject to abatement pursuant to Chapters 1.5 and 1.6.

f. Violation – Penalty. Any person violating any provision of this section is guilty of an infraction.

g. Appeals to City Council. Any person aggrieved by the decision rendered by the City Manager in granting or denying an application for a permit under this section or in revoking a permit issued under this section may appeal the decision to the City Council in accordance with Section 2.4.020. The appeal shall be made by filing a written notice thereof with the City Clerk not later than ten (10) calendar days after receiving notice of the decision of the City Manager. The City Council shall hold a hearing on the appeal and its decision thereon shall be final. Instead of hearing the appeal, the City Council may refer the matter to a hearing officer to recommend a decision, pursuant to Section 2.4.020.

(Sec. 1, Ordinance No. 08-17, adopted May 23, 2017)

9.1.1234 Tobacco Retailing Businesses.

a. Purpose and Intent. The primary purposes of this section are to restrict the concentration of tobacco retailing businesses in any one area; to minimize the availability of tobacco products to minors by prohibiting tobacco retailing businesses from locating near schools and other youth-sensitive areas; and to prohibit hookah lounges, vapor lounges, and significant tobacco retailing businesses, which have a deleterious effect upon adjacent areas.

b. Definitions. For the purposes of this section, the following words and phrases have the following meanings:

1) "Hookah lounge," also referred to as a "hookah bar," means 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 water pipe).

2) "Significant tobacco retailing business" means any tobacco retailing business for which twenty percent (20%) or more of floor or display area is devoted to tobacco products, tobacco

paraphernalia, or both.

3) "Tobacco paraphernalia" means any item designed or marketed for the consumption, use, or preparation of tobacco products.

4) "Tobacco product" means any of the following:

a) 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.

b) Any electronic smoking device.

c) Any component, part, or accessory of a tobacco product, whether or not it is sold separately.

d) "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.

5) "Tobacco retailing" means selling, offering for sale, or exchanging or offering to exchange for any form of consideration tobacco, tobacco products, or tobacco paraphernalia. This definition is without regard to the quantity of tobacco products or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

6) "Tobacco retailing business" means any facility, building, structure, or location that is used, whether as a primary use or as an ancillary use, for tobacco retailing.

7) "Vapor lounge," also referred to as a "vape lounge," "vapor bar," "electronic smoking device bar," or "electronic smoking device lounge," means any facility, building, structure, or location where customers use one or more electronic smoking devices, as defined in Section 4.19.004(f), to deliver an inhaled dose of nicotine or other substance within the establishment.

c. Restrictions. The following conditions shall apply only to tobacco retailing businesses located in the C (General Commercial) and RB (Retail Business) Zoning Districts, or any P-1 District that allows commercial uses:

1) A conditional use permit is required;

2) No tobacco retailing business shall be located within one thousand (1,000) feet of any parcel occupied by a public or private school, playground, park, library or bus stop servicing schools.

For the purposes of this section, distance is measured by the shortest line connecting any point on the property line of the parcel on which the tobacco retailing business will be established or maintained to any point on the property line of the other parcel.

d. Establishment. For the purposes of this article, the establishment of a tobacco retailing business includes the opening of a tobacco retailing business as a new business, the relocation of an existing tobacco retailing business to a different location, or the conversion of an existing retail business location to a tobacco retailing business.

e. Nonconforming Tobacco Retailing Use.

1) For the purposes of this section, each of the following is a nonconforming tobacco retailing use:

a) Tobacco retailing at any lawful tobacco retailing business existing at the time this section becomes effective that does not conform to the provisions of subsection (c) of this section.

b) Tobacco retailing at any lawful tobacco retailing business that, after this section becomes effective, does not conform to the provisions of subsection (c) of this section due to the lawful establishment of a public or private school, playground, park, or library.

f. Hookah Lounges Prohibited. A hookah lounge may not be established in any land use district.

g. Vapor Lounges Prohibited. A vapor lounge may not be established in any land use district.

h. Significant Tobacco Retailing Businesses Prohibited. A significant tobacco retailing business may not be established in any land use district.

(Sec. 1, Ordinance No. 23-18, adopted December 11, 2018; Sec. 2, Ordinance No. 03-18, adopted March 13, 2018)

Article 13 RESERVED

Article 14 PARKING AND CIRCULATION

9.1.1402 Off-Street Parking.

a. Generally. It is the intent of this code 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 application for a 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 code.

b. Application to Existing Land Uses. Land uses in existence for which building permits have been

approved, 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.

c. Fractional Parking Space. Where the computation of required off-street parking spaces results in a fractional number, only the fraction of one-half (½) or more shall be counted as one (1).

d. Mixed Uses. Where property is occupied or intended to be occupied by two (2) 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 (1) 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 Planning Commission may, by a Conditional Use Permit, authorize provision for parking on any parcel in the same ownership located within two hundred feet (200') of the lot containing the main 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 Community Development Director:

1. Dimensions of the required off-street parking spaces and driveways shall have minimums as per the following tables:

Standard Car Spaces – Minimum Dimensions			
Type	**Stall Width**	**Stall Depth**	**Maneuvering Width**
90 Degree	9 Feet	19 Feet	24 Feet
60 Degree	8 Feet	20 Feet	20 Feet
45 Degree	8 Feet	19 Feet	14 Feet
30 Degree	8 Feet	16 Feet	12 Feet
Parallel	9 Feet	24 Feet	12 Feet
Other	To be determined by the Planning Commission		

Compact Car Spaces – Minimum Dimensions		
Type	**Stall Width**	**Stall Depth**
90 Degree	7.5 Feet	16 Feet
60 Degree	7.5 Feet	18 Feet
45 Degree	7.5 Feet	17 Feet
30 Degree	7.5 Feet	14 Feet

Other	To be determined by the Planning Commission

All parking areas shall have "standard car spaces" unless irregularly shaped lots prohibit the provision of "standard car spaces." Compact spaces shall not exceed 30 percent of the total number of parking spaces provided.

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 (12') in width in the case of one-way traffic, and not less than twenty-four feet (24') 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, concrete, or other permanent impervious surfacing material sufficient to prevent mud, dust, loose material, and other nuisances, and off-street parking areas 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 six feet (6') 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 (5) parking spaces shall provide, in addition to the required parking area, an area equal to not less than five percent (5%) 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 Community Development Director, 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 so located as 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 vehicular parking does not overhang into the minimum required width of sidewalks, planters or landscaped strips.

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-foot-high (6’), solid fence, 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 inches (6") in height shall be provided adjacent to landscaping, buildings, and other areas to prevent damage to these facilities by the vehicles utilizing the parking areas.

13. Lines delineating each parking space shall be double-striped to ensure a safe distance between cars.

14. Parking areas may require traffic calming measures as determined by the Community Development Director.

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

h. Common Parking Facility. Nothing in this Code shall be construed to prevent the joint use of off-street parking for two (2) or more land uses 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 Code.

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

Number of Required Spaces			
Residential			
1.	Day care	1 space per 7 children; maximum enrollment based on maximum occupancy load.	
2.	Manufactured Home Parks	2 off-street parking stalls per manufactured home unit;	

3.	Multi-Family Dwelling Unit	a. Every apartment or dwelling unit shall have, on the same lot or parcel, off-street automobile storage space as follows:	
		i. Studio dwelling unit, one (1) space; one bedroom dwelling unit, one and one-half (1 1/2) spaces; two (2) or more bedroom units, two (2) spaces; plus;	
		ii. One-quarter (1/4) space per each dwelling unit for guest parking and fractional amounts of which shall be rounded out to the next higher whole number of spaces.	
		b. One-half (1/2) of the required spaces shall be covered.	
4.	Single Family Dwelling Unit	In each single family dwelling unit shall have at least two (2) covered off-street automobile parking spaces on the same lot.	
5.	Second Dwelling Unit.	In addition to parking required for the primary residence, one (1) additional off-street parking space shall be provided for a second dwelling unit. This additional parking space may be uncovered and compact, but may not block vehicular access to a parking space that is required for the primary residence. The parking space shall be outside the front yard setback.	
		This requirement for an additional parking space may be waived by the Planning Commission if it finds that adequate on-street parking is available adjacent to	

		the property.	
Public and Semi-Public			
6.	Airport	As specified by use permit;	
7.	Assembly halls without fixed seats	One (1) space for each forty (40) square feet of floor area of assembly area	
8.	Assembly uses with fixed seats	One (1) space for each three (3) seats	
9.	Cemeteries	As specified by use permit	
10.	Convalescent Facilities and sanitariums	1.0 for each 3.0 beds	
11.	Cultural institutions	1 per 300 square feet	
12.	Golf courses and driving ranges	5 spaces per hole plus 1 per range tee	
13.	Heliports	As specified by use permit	
14.	Hospitals	One (1) space for each two (2) beds	
15.	Marinas	0.8 per berth	
16.	Mortuaries	One (1) space for each fifty (50) square feet of gross floor area in chapel areas	
17.	Park and Recreation Facilities	As specified by use permit	
18.	Public safety facilities	As specified by use permit	
19.	Rooming and lodging houses	One (1) space for each bedroom	
20.	Utilities minor/major	As specified by use permit	
21.	Yacht clubs	1 per 3 seats or 1 per 35 square feet used for assembly purposes	
Commercial			
22.	Animal grooming/animal boarding	1 per 400 square feet	
23.	Artist's studios	1 per 1,000 square feet	
24.	Banks; business and	One (1) space for each two	

	professional offices, other than medical and dental offices	hundred fifty (250) square feet of gross floor area	
25.	Barber shops and nail salons	2.0 for each chair or 1.0 for each 100 square feet of gross floor area, whichever is greater	
26.	Boat charter	1 per each three occupants including crew members	
27.	Boat rental and sales	1 per 1,000 square feet of lot area	
28.	Boat yards	As specified by use permit	
29.	Bowling alleys	Seven (7) spaces for each alley,	
30.	Commercial service, repair shops and wholesale establishments	One (1) space for each five hundred (500) square feet of gross floor area	
31.	Dry boat storage	0.33 per storage space	
32.	Eating and drinking establishments – accessory	1 per each 150 square feet of net public area	
33.	Eating and drinking establishments as related to primary use	1 per each 150 square feet of net public area	
34.	Gasoline service station	1.0 for each employee on the largest shift;	
		plus	
		2.0 for each hoist, rack, or area primarily designed for the servicing or minor repair of one motor vehicle, excluding fuel pump service areas;	
		plus	
		1.0 for air/water dispenser.	
		In all cases, a minimum of 3.0 off-street parking spaces must be provided.	

35.	Gasoline service station with mini-market	1.0 for each employee on the largest shift;	
		plus	
		2.0 for each hoist, rack, or area primarily designed for the servicing or minor repair of one motor vehicle, excluding fuel pump service areas;	
		plus	
		1.0 for air/water dispenser;	
		plus	
		1.0 for each 400 square feet of gross floor area.	
		In all cases, a minimum of 5.0 off-street parking spaces must be provided.	
36.	Golf courses and driving ranges	5 spaces per hole plus 1 per range tee	
37.	Horticulture, limited	1 per 2 acres	
38.	Hotels and motels	One (1) space for each sleeping unit and one (1) space per manager	
39.	Laundry, dry-cleaning facilities	1.0 for each two washing machines plus 1.0 for each dry-cleaning machine	
40.	Medical and dental offices	1.0 per 225 sq.ft.	
41.	Mini-storage facilities	2.0 covered near the residential unit and 5.0 uncovered near the office	
42.	Repair services including, motor vehicle, appliance and furniture	1 for each 800 square feet floor	
43.	Research and development facilities	1 for each 350 square feet of gross floor area	

44.	Retail stores and shops, except as otherwise specified herein	One (1) space for each two hundred fifty (250) square feet of gross floor area	
45.	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	
46.	Retail and wholesale establishments conducted primarily outside of buildings	One (1) space for each 1,000 sq. ft. outdoor sales area	
47.	Retail marine sales	1 per 250 square feet	
48.	Skating rinks	1 for each 200 square feet of floor area devoted to the principal activity	
49.	Sports arenas	One (1) space for each four (4) seats	
Industrial			
50.	Industry, marine-related	1 per 750 square feet	
51.	Lumber yards	1.0 for each 500 square feet of gross floor area for the 10,000 sq. ft.; 1 per 1,000 thereafter.	
53.	Warehouses and other storage buildings	One (1) space for each one thousand (1,000) square feet of gross floor area	

e. Commercial Downtown District: provision of spaces subject to the Oakley Redevelopment Area Planned Unit District.

f. 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.

j. Requirements in Non-business Areas. Wherever one (1) or more parcels of land adjoin land of a publicly owned transportation facility, or a street adjoining a publicly owned transportation facility, or adjoin a zoning district allowing business uses, off-street parking may be allowed on these parcels to serve the public transportation facility or authorized business uses, after the issuance of a conditional use permit, if:

i. The parking areas are limited to an area within one thousand feet (1,000') of the public transportation facility or the boundary of the zoning district allowing business uses. Areas beyond this distance may be used for landscaping.

ii. The parking area is for private passenger vehicle parking, only.

iii. No commercial repair work or sales of any kind are allowed.

iv. No signs are permitted other than those to guide traffic, to identify the parking lot, and to state the condition of use.

v. The parking area is designed and developed in the manner and with the conditions deemed proper and adequate to protect residences in the vicinity. These conditions include, among others, the following:

1. Proper planting and screening shall be provided either with fencing or planting, or both, to protect nearby residences from noise, light, and other detrimental effects.

2. The entrance/exits shall be designed and located to minimize conflict with both existing and reasonably foreseeable vehicular and pedestrian traffic.

3. The area used for drives and parking shall be suitably paved to prevent dust and mud.

4. Proper provisions shall be made, as deemed necessary, for adequate lighting of entrances, exits, and parking areas, with measures to shield adjacent residential areas from the lights.

5. Establishment of the parking area shall be subject to the approval of a detailed plot plan depicting and delineating the above requirements and planning location of parking attendant's shelter, together with other necessary elements to constitute a proper parking area.

k. 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:

1. 10,000 – 25,000 square feet of gross floor area, one (1) space,

2. 25,001 – 50,000 square feet of gross floor area, two (2) spaces,

3. 50,001 – 100,000 square feet of gross floor area, (3) spaces.

4. Plus one (1) space for each additional seventy-five thousand (75,000) square feet of gross floor area. In addition, the following requirements shall be provided:

i. 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.

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

iii. 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.

iv. 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.

l. Pedestrian Accessways. All new "big box" commercial developments having parking lots with 100 spaces or more shall provide on-site pedestrian circulation systems that provide safe and convenient pedestrian accessways, while minimizing out-of direction travel. The pedestrian accessways shall comply with the following design standards:

1. Pedestrian connections shall connect main building entrances to the nearest sidewalk or other walkway leading to a sidewalk. Pedestrian connections also shall connect to outdoor activity areas such as parking lots and transit stops. Walkways shall be designed to minimize out-of-direction travel.

2. On-site pedestrian walkways shall be well drained, hard surfaced and at least five feet (5') in unobstructed width. Walkways shall be increased to seven feet (7') in width when bordering parking spaces other than parallel parking spaces, and surface material shall contrast visually with adjoining surfaces. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps. Within automobile parking areas, or when the pedestrian circulation system is parallel and adjacent to an auto travel lane, pedestrian safety shall be improved by raising the walkway or separating it from the auto travel lane by a raised curb, bollards, landscaping or other physical barrier. When crossing driveways and parking areas, pedestrian crossings and walkways may be built at the same elevation as the driveways and walkways if they are constructed of permanent materials, including paving or markings in a manner which contrasts and clearly delineates the crossing or walkway at any time of day or night.

3. The on-site pedestrian circulation system shall be lighted to enhance pedestrian safety

and allow its use at night.

4. On-site vehicular circulation systems and required pedestrian walkways shall be designed to minimize vehicular/pedestrian conflicts through measures such as minimizing driveway crossings, creating separate pedestrian walkways through the site and parking areas, and designating areas for pedestrians by marking crossings with changes in textural material. Marked crossings shall have a continuous, detectable marking not less than 36 inches wide using textural material that is firm, stable, slip-resistant, and consistent with the Federal Americans with Disabilities Act.

9.1.1404 Sight Obstructions at Intersections.

a. Obstructions Prohibited. No structure (including but not limited to fences and gateways) or vegetation which obstructs the visibility of and from vehicles approaching the intersection of a State highway, public road, or street with another State highway, public road, or street, shall be constructed, grown, maintained or permitted higher than two and one-half feet (2 1\2') above the curb grade, or three feet (3') 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 feet (25') 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 feet (25') back from the point of their intersection; or as justified by an engineering analysis approved by the City Engineer. 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. Railroad Crossings. The prohibitions and limitations of subsection (a) of this section shall apply in every setback or front yard of a lot within seventy-five feet (75') of the point where a State highway, public road, or street crosses a railroad track.

d. Violation – Notice. If the City Engineer determines that a violation of this chapter exists, he shall give written notice 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 (10) days after receipt of the notice. The notice shall also recite the right of appeal provided for in subsection (e) of this section. It is unlawful for the person to whom the notice is addressed to fail to remove the obstruction within the ten (10) day period unless within the period he appeals as provided for in subsection (e) of this section, in which case the removal must be accomplished within ten (10) days of an adverse ruling on the appeal or application or as ordered by the Planning Commission.

e. Appeal. The owner, tenant, or person having possession, charge or control of premises may appeal the determination of the City Engineer made under subsection (d) of this section, or may seek a variance from the terms of this chapter by application to the Planning Commission. Upon such application the Planning Commission may review the determination of the City Engineer, 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.

f. Removal After Appeal. Within ten (10) days after the Planning Commission determines that the obstruction must be removed, the applicant shall remove the obstruction.

Article 15 LAND USE REQUIREMENTS

9.1.1502 Nonconforming Uses.

a. Purpose. To establish regulations relating to nonconforming structures and uses and to establish conditions under which nonconforming structures and uses may be maintained, restored, replaced, repaired, altered, changed, expanded, or amortized. The intent of this ordinance is to prevent the expansion of nonconforming structures and uses and to amortize them over time.

b. Definitions.

1. "Expansion or Intensification" means an enlargement, addition, relocation, repair, remodeling, increase in the number of dwellings or rooming units, any increase in occupancy or tenants, change in use, or any other change in an activity or facility.

2. "Nonconforming Structure" shall mean a structure that was legally constructed prior to the effective date of the ordinance codified in this section but which does not conform to the current provisions of the Zoning Ordinance or General Plan.

3. "Nonconforming Use" shall mean a use of a structure or land that was legally established prior to the effective date of the ordinance codified in this section but which does not conform to the current provisions of the Zoning Ordinance or General Plan.

c. Nonconforming Structure Regulations.

1. Conformity with applicable regulations and laws. All work performed on a nonconforming structure shall be pursuant to a building permit, meet all the requirements of this ordinance and all City Codes, and conform to any other health or safety regulations or laws imposed by local, County, State, regional, or Federal agencies in effect at the time of the work and shall not expand any nonconformity;

2. Maintenance. Ordinary maintenance and minor repair of nonconforming structures is permitted if the aggregate cost of the work done in any period of six consecutive months does

not exceed 25% of the replacement value of the structure, as determined by the Building Official and if the size of the structure or number of dwelling units is not increased;

3. Restoration. A damaged nonconforming structure, restoration of which will cost 50% or less of its full replacement cost immediately prior to such damage, as determined by the Building Official, may be restored to its previous nonconforming state, but must otherwise comply with all provisions of this ordinance. A damaged nonconforming structure, restoration of which costs more than 50% of its full replacement cost, may be restored subject to a Conditional Use Permit. Expansion or intensification of the nonconforming structure is prohibited;

4. Repairs and alterations to nonconforming residence. Repairs and alterations may be made to nonconforming residences, including multi-family structures, without replacement cost limitations, if located in a residential zoning district and if the requirements of subsection (a) are met, including the limitation therein that the repairs and alterations shall not expand the nonconformity. New construction on property with a nonconforming residential structure shall comply with the current applicable standards of the Zoning Ordinance;

5. Repairs, interior modifications, and alterations to nonconforming nonresidential structures. Repairs, interior modifications, and alterations to nonconforming nonresidential structures may be made only if none of the structural alterations prolong the life of the supporting members of a structure, including without limitation bearing walls, columns, beams, or girders. Structural elements may be modified or repaired only if the

Building Official determines that such modification or repair is immediately necessary to protect the public health, safety, and welfare of occupants of the nonconforming structures, or adjacent property, and the cost of all repairs or alterations does not exceed 50% of the replacement cost of the nonconforming structure immediately before such repairs or alterations, as determined by the Building Official. New construction on property with a nonconforming nonresidential structure shall comply with the current applicable standards of the Zoning Ordinance;

6. Seismic repairs. Reconstruction required to reinforce unreinforced masonry or otherwise seismically unsafe structures shall be permitted without replacement cost limitations only if the retrofitting is limited exclusively to comply with earthquake safety standards;

7. Loss of nonconforming structure status. If the use of a nonconforming structure is discontinued for a period of six or more consecutive calendar months, the structure shall lose its nonconforming structure status, and shall be removed or altered to conform to the provisions of the Zoning Ordinance. Such removal or alteration to conform to the provisions of the Zoning Ordinance shall occur within six months of the date that loss of nonconforming structure status is determined or within such other date the City Council decides pursuant to

the hearing in subsection (f) of this section. Failure to remove or alter the structure beyond that period, without written approval of the Director of Community Development due to unusual circumstances, constitutes a violation of this ordinance and a public nuisance. A use of a nonconforming structure shall be considered abandoned or discontinued whenever any of the following apply:

i. The use of a nonconforming structure is discontinued for a period of six or more consecutive calendar months;

ii. Removal of components of the use. The actual removal of characteristic furnishings, equipment, structures, machinery, or other components of the use occurs during the six-month period;

iii. No business receipts or records are available for the six-month period;

iv. Utility bills indicate that no use has occurred during the six-month period.

d. Nonconforming Use Regulations.

1. Change of Ownership or tenancy. The change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, but only if the use, extent, and intensity of use does not change;

2. Residential Uses in a Nonresidential Zoning District. A nonconforming residential use in a nonconforming residential structure in a nonresidential zoning district may continue to be used as a residence subject to the requirements of the R-6 zoning district (if a single-family dwelling) or of the M-12 zoning district (if a multi-family dwelling) until such time as the building is amortized, condemned, removed or converted to a conforming use. If a nonconforming residential structure in a nonresidential zoning district is damaged or destroyed, other than by an intentional act of the property owner, such that restoration would cost more than 50% of its full replacement value before it was damaged, such structure may be rebuilt subject to a Conditional Use Permit. Expansion or intensification of the nonconforming use is prohibited;

3. Commercial Uses in a Non-Commercial Zoning District. A nonconforming commercial structure in a noncommercial zoning district may continue to be used for commercial purposes until such time as the building is amortized, condemned, removed or converted to a conforming use. If a nonconforming commercial structure in a noncommercial zoning district is damaged or destroyed, other than by an intentional act of the property owner, such that restoration would cost more than 50% of its full replacement value before it was damaged, such a structure may be rebuilt subject to a Conditional Use Permit. Expansion or intensification of the nonconforming use that existed before the damage or destruction is prohibited.

4. Expansion, intensification, or modification of a nonresidential use in a residential zoning district. No expansion, intensification, or modification of a nonresidential use in a residential zoning district shall be permitted;

5. Loss of nonconforming use status. If the nonconforming use of a structure is discontinued for a period of six or more consecutive calendar months, the use shall lose its nonconforming use status, and all rights to reestablish or continue the nonconforming use shall terminate regardless of any reservation of an intent not to abandon or of an intent to resume active operations. Abandonment or discontinuance of use shall be deemed to have occurred whenever any of the following apply:

i. The nonconforming use of a structure is discontinued for a period of six or more consecutive calendar months;

ii. A nonconforming use is replaced by a conforming use;

iii. The actual removal of characteristic furnishings, equipment, structures, machinery, or other components of the use occurs during the six-month period;

iv. No business receipts or records are available for the six-month period;

v. Utility bills indicate that no use has occurred during the six-month period.

6. Replacement. Replacement of a nonconforming use with another nonconforming use is prohibited;

7. Expansion or intensification. Expansion or intensification of a nonconforming use is prohibited.

8. Underutilized Single-Family Residential Use. Notwithstanding anything contained herein, a single-family residential use located in a residential district that was in compliance with the General Plan's density regulations at the time the use was initiated, but thereafter fails to meet the applicable minimum density requirement set forth in the General Plan, thus becoming a legal nonconforming use, may be maintained, restored, replaced, repaired, altered, changed or expanded, without losing its nonconforming use status.

e. Building Permits or Certificates of Occupancy Prohibited. When any nonconforming structure or use is no longer permitted pursuant to the provisions of this Ordinance (loss of nonconforming structure status, or at the end of an amortization period determined by the City Council), no Building Permit or Certificate of Occupancy shall thereafter be issued for further continuance, alteration, or expansion of the use or structure. Any Building Permit or Certificate of Occupancy issued in error shall not be construed as allowing the continuation of the nonconforming structure or use.

f. Amortization.

i. When the City Attorney or Community Development Director determines that a structure or use located in the Redevelopment Plan Redevelopment Project Area is nonconforming, a public hearing may be held by the City Council pursuant to Ordinance Nos. 13-00 and 18-01. At that hearing the City Council shall hear a report by the Community Development Director on the issue and shall determine if the structure or use should be amortized and over what period. The nonconforming structure or use shall be discontinued within the amortization period determined by the City Council, which shall be determined on a case-by-case basis.

ii. In determining a reasonable amortization period for a nonconforming use or structure, the Council shall consider the following factors:

1. The amount of investment in or original cost of the structure or use;

2. The present actual or depreciated value of the structure or use;

3. The remaining time period, if any, to amortize the costs of the structure or facilities associated with the use under the provisions of the Internal Revenue Code;

4. The salvage value of the structure or facilities associated with the use;

5. The remaining useful life of (a) the structure or facilities associated with the use; and (b) business fixtures and equipments associated with the use;

6. The ability to change the use or structure to a conforming use or structure;

7. The compatibility with the existing land use patterns and densities of the surrounding neighborhoods;

8. The remaining term of any lease for the property on which the structure or use is located; and

9. The harm to the public that will result if the structure or use remains beyond the time period recommended by the Community Development Director for amortizing the structure or use. (See Section 2.4.014(c) of Code)

iii. The Community Development Director shall provide estimates of all costs and valuations by this section.

iv. The owner or operator of a nonconforming structure or use shall have the burden of proving that the amortization period recommended by the Community Development Director is unreasonable.

v. Failure to comply with a City Council order as to discontinuance of a structure or use

shall constitute a violation of this ordinance and a public nuisance.

vi. Notwithstanding anything contained herein, a single-family residential use located in a residential district that was in compliance with the General Plan's density regulations at the time the use was initiated, but thereafter fails to meet the applicable minimum density requirement set forth in the General Plan, thus becoming a legal nonconforming use, shall not be subject to the amortization requirements set forth in this subsection (f).

g. Illegal Structures and Uses. Nothing contained in this ordinance shall be construed or implied so as to allow for the continuation of illegal nonconforming structures and uses. Structures and uses that are not legally constructed or established shall be removed and/or discontinued immediately.

(Sec. 4, Ordinance No. 08-15, adopted July 14, 2015)

Article 16 ADMINISTRATION

9.1.1602 Variance And Conditional Use Permits.

a. Qualified Applicant. A qualified applicant may apply for a land use permit to apply to land in any land use district established in Article 3 of this chapter, for one (1) or more of the uses for which land use permits may be granted in the district. A "qualified applicant" is any person having a freehold interest in land, a possessory interest entitling him to exclusive possession, or a contractual interest that may become a freehold or exclusive possessory interest and is specifically enforceable. An application shall be filed with the Community Development Department.

b. Variance and Conditional Use Permits; Application Requirements. Application for a variance or conditional use permit shall be filled by the owner of the property for which the permit is sought, or by the authorized representative of the owner; provided, however, that the City Council, upon written request of the owner's authorized representatives of the owners of the majority of the property in an area for which a development is being proposed, may authorize the filing of an application without the approval of all the property owners or their authorized representatives if the City Council determines that to do so is in the best interest of the City. Application shall be made to the Commission on forms furnished by the Community Development and shall be full and complete.

c. Renewed Application After Denial. If any application for a land use or variance permit is denied (unless the denial is without prejudice to refilling), no new application shall be made or accepted within one (1) year after the effective late of denial, unless:

i. The applicant shows material change in the circumstances upon which the denial was based; and

ii. The Community Development Director accepts the new filing on these grounds. If the Community Development Director rejects the new application, he shall communicate his

reasons to the applicant.

iii. Materially changed circumstances means that:

1. The proposed use or variance is significantly different from that originally applied for; and/or

2. The lot involved has been diminished or enlarged with the result that the proposed use or variance would be more compatible to the revised lot than the situation originally applied for; and/or

3. There has been a change in zoning classification that significantly affects this land.

d. Variance and Conditional Use Permits; Notice Requirements.

1. Mail; Addresses. The Community Development Department shall schedule a hearing before the appropriate division, and mail notice thereof pursuant to Government Code Section 65905. The mail notice shall be given, by postage prepaid first-class United States mail, to all owners of real property within three hundred feet (300') of the subject land, using addresses from the last equalized assessment roll, or from such other records (as the Assessor's or Tax Collector's) as contain more recent addresses in the opinion of the Planning Director.

2. Contents. The notices shall state the time, date and place of the hearing, the general nature of the application, and the street address, if any, 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.

3. Revocations. Notice of hearings on revocations shall be given in the same manner as on applications.

e. Variance Permit Standards. An application for a variance permit is an application to modify zoning regulations as they pertain to lot area, lot building coverage, average lot width, lot depth, side yard, rear yard, setback, auto parking space, building or structure height, or any other regulation pertaining to the size, dimension, shape or design of a lot, parcel, building or structure, or the placement of a building or structure on a lot or parcel. The division of the Planning Agency hearing the matter either initially or on appeal shall find the following conditions that must exist prior to approval of an application:

1. 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;

2. 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;

3. That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located.

f. Conditional Use Permit Standards. An application for a conditional use permit is an application to establish a land use within a land use district that does not allow establishment by right, but does allow the granting of a land use permit after a public hearing. The commission, in approval or conditionally approving a conditional use permit, shall find as follows:

1. That the site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this title to adapt the use with land and uses in the neighborhood;

2. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use;

3. The proposed use will be arranged, designed, constructed, operated and maintained so as to be compatible with the intended character of the area and shall not change the essential character of the area from that intended by the general plan and the applicable zoning ordinances;

4. That the proposed use provides for the continued growth and orderly development of the community and is consistent with the various elements and objectives of the general plan;

5. That the proposed use, including any conditions attached thereto, will be established in compliance with the applicable provisions of the California Environmental Quality Act.

g. Variance and Conditional Use Permits; Termination. Conditional use and variance permits and licenses issued pursuant to this chapter shall terminate as provided in subsections 10-B-1.9 through 10-B-1.11.

h. Variance and Conditional Use Permits; Exercise and Use. A permit issued under provisions of this chapter shall be deemed to be exercised, used or established when, within one (1) year of the granting, or within the time otherwise specified on the permit, a building permit is issued by the Building Inspector for the purpose and location described on the permit, providing that the building permit does not expire. If no building permit is required under the Building Code to establish such variance, use or other matter granted, then the permit shall be deemed to be exercised, used or established when clear and visible evidence is demonstrated on the subject property as to its beginning and continual development thereafter until completed. Upon a showing of good cause therefor, the Community Development Director may extend the period of a permit, in which it is to

be exercised, used or established, for a maximum of one additional year. A time period stated in the permit shall govern over this provision.

i. Variance and Conditional Use Permits; When Void; Time Extension. If a use is established according to the terms and conditions of a 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 Community Development Director may grant an extension not to exceed a total of six months.

j. Previously Expired Variance, Conditional Use and Special Permits. Any permit previously issued which expired, was revoked or became void under any provision of law then in effect shall not be revived by any of these provisions.

9.1.1604 Design Review.

a. Purpose and Findings.

1) Purpose. The purpose of this section is to provide the process for the review and analysis of proposed projects' design, including site plans, architectural elevations, conceptual landscape plans, and other physical development for all lots within all zoning districts. Design review control should be the minimum necessary to ensure compliance with the applicable sections of the Zoning Ordinance and achieve the purposes, intents, and goals of the Oakley Residential Design Guidelines and Oakley Commercial and Industrial Design Guidelines.

2) Findings. The City Council finds that:

a) The design, appearance, and manner of development of all properties within the City have a substantial relationship with the characteristics of public and private places that make a community visually interesting, functional, and a source of community pride.

b) Development within the City should be in a manner that is of high quality and allow for flexibility of unique solutions to enhance a project's design so that it can be successfully integrated into the existing fabric of the City, while preserving the City's human scale and sense of place.

c) The quality of life and stabilization of property values are enhanced by project design that meets the criteria set forth in the Oakley Design Guidelines, Zoning Ordinance, and General Plan, as applicable.

d) Design review is necessary to enhance project design, ensure quality development, maintain or enhance property values, and add to the visual character of the community and public health, safety, and welfare of Oakley residents.

b. Design Review Application Required.

1) Design review shall be required in any residential, commercial, industrial or public and semi-public zoning district for any permitted or conditionally permitted establishment of use on a property that is not already developed with full frontage improvements and on-site improvements, for new above ground buildings or structures, whether intended to be permanent or temporary, for house plans, elevations and landscaping for any custom home or residential subdivision, for modification of the facade or color of a structure (with the exception of house colors proposed by individual property owners), or for any work that alters the existing grade of a property.

c. Design Review in Residential Zoning Districts.

1) Tentative Parcel Maps (Less Than Five Lots) and Single Lot Development.

a) Duty to Review.

(1) The Zoning Administrator shall review each application for a building permit for a custom home or residential accessory structure on a single lot or for a design review application in conjunction with a tentative parcel map (a tentative map creating less than five lots) in a residential zoning district.

(2) The Planning Commission shall review all design review applications related to nonresidential uses otherwise permitted or conditionally permitted in residential districts.

b) Procedure for Zoning Administrator Review.

(1) If the Zoning Administrator finds that the application for a building permit or design review is consistent with the criteria adopted under Article 4 of Chapter 9.1, Oakley Residential Design Guidelines, and State law, as applicable, the Zoning Administrator shall approve issuance of the building permit or design review.

(2) If the Zoning Administrator finds the application for a building permit or design review is inconsistent with the criteria adopted under Article 4 of Chapter 9.1 or the Oakley Residential Design Guidelines, the Zoning Administrator shall provide comments to the applicant so that the applicant may revise the application for a building permit or design review in order to reach consistency with Article 4 of Chapter 9.1 and the Oakley Residential Design Guidelines.

(3) If the Zoning Administrator is in doubt as to whether the application for a building permit or design review is consistent with the criteria in Article 4 of Chapter 9.1 or the Oakley Residential Design Guidelines, the application for design review shall be heard by the Planning Commission as a regular calendar item. The Planning Commission shall act upon the application at its next regularly scheduled meeting

where the item may be placed on the agenda.

2) Tentative Maps (Five or More Lots).

a) Duty to Review.

(1) When an applicant or developer proposes a residential subdivision of five or more lots (tentative subdivision map) and proposes the house design and elevations at the same time of the subdivision approval process, the design review process shall be undertaken by the Planning Commission concurrently with the subdivision approval process and be heard as a public hearing item.

(2) For residential design review applications filed separately from a tentative map, the Planning Commission shall act upon the application at a regularly scheduled meeting. The design review application shall be heard as a public hearing item.

b) Procedure for Review.

(1) If the Planning Commission finds that the design review application meets the standards of review for design review application (subsection (f) of this section), and is consistent with the criteria under Article 4 of Chapter 9.1 and the Oakley Residential Design Guidelines or Commercial and Industrial Guidelines, if applicable, the Planning Commission shall approve the design review application through adoption of a resolution.

d. Design Review in Commercial, Industrial and Public and Semi-Public Zoning Districts.

1) Duty to Review.

a) The Planning Commission or Zoning Administrator shall review each application for a building permit and/or design review application for any structure that is above ground or alters the existing grade in any commercial, industrial or public and semi-public zoning district, including plans to modify the facade or color of a structure significantly. The application for design review shall be referred to the Planning Commission for review and approval as a public hearing item, except for applications that fit the criteria in subsection (d)(2)(b) of this section, which may be reviewed and approved by the Zoning Administrator.

2) Procedure for Review.

a) If the Planning Commission finds that the design review application meets the standards of review for design review application (subsection (f) of this section), and is consistent with the criteria under Articles 5, 6 and 7 of Chapter 9.1 and the Oakley Commercial and Industrial Design Guidelines, as applicable, the Planning Commission

shall approve the design review application through adoption of a resolution.

b) The Zoning Administrator may review and approve an application for design review filed in compliance with this section if it falls within any of the following categories:

(1) A detached accessory structure on a lot with an occupied main building where the detached accessory structure is not highly visible from public view and built for the purposes of storage of materials rather than occupancy.

(2) An addition to a main building where the gross floor area of the addition is less than ten thousand (10,000) square feet or twenty-five percent (25%) of the existing gross floor area of the main building, whichever is less. (Ex. The maximum addition size to an existing twenty thousand (20,000) square foot building that could be reviewed and approved by the Zoning Administrator is five thousand (5,000) square feet (twenty-five percent (25%))).

(3) Re-facades or re-paints where the intent of the architecture and/or colors is significantly the same as existed on the building prior to the need for renovation. Significant changes in architecture or colors shall be heard by the Planning Commission as a regular calendar item. The Planning Commission shall act upon the application at its next regularly scheduled meeting where the item may be placed on the agenda.

c) If the Zoning Administrator finds that the application for a building permit meets the standards of review for design review application (subsection (f) of this section), and is consistent with the criteria under Articles 5, 6 and 7 of Chapter 9.1 and the Oakley Commercial and Industrial Design Guidelines, as applicable, the Zoning Administrator shall approve issuance of the building permit.

d) If the Zoning Administrator is in doubt as to whether the application for a building permit is consistent with the criteria in this subsection, the application for design review shall be heard by the Planning Commission as a regular calendar item. The Planning Commission shall act upon the application at its next regularly scheduled meeting where the item may be placed on the agenda.

e. Design Review Application Requirements.

1) Application for a design review shall be filled by the owner of the property for which the permit is sought, or by the authorized representative of the owner; provided, however, that the City Council, upon written request of the owner's authorized representatives of the owners of the majority of the property in an area for which a development is being proposed, may authorize the filing of an application without the approval of all the property owners or their authorized representatives if the City Council determines that to do so is in the best interest of

the City. Application shall be made to the Planning Division on forms furnished by the Community Development Department and shall be full and complete.

f. Standards for Review of Design Review Applications.

1) The Planning Commission or Zoning Administrator shall consider the following aspects of each application (found in the Commercial and Industrial Design Guidelines) to the extent they are applicable to each project:

a) Site planning, including building siting (location), setback and orientation; entries, circulation and parking; landscape setbacks and buffers; and location of trash, loading and service areas, and mechanical equipment.

b) Architecture, including massing and grouping; facades, entries and roofs; materials and colors; and screening of trash, loading and service areas, and mechanical equipment.

c) Landscaping and site elements, including general landscape areas; entry and plaza enhancements; parking lot landscaping; walls and fences; and lighting.

d) Streetscapes, including major community entries; highlighted intersections; and district entries.

g. Duration of Design Review Approval.

1) A design review approval shall terminate according to its terms, if any, or upon the expiration of one year from the approval date, unless a building permit or grading permit related to the project associated with the design review approval has been issued. An extension of time may be granted by the same decision making body that approved the original design review approval upon written request by the applicant filed within the effective period of the original approval.

h. Noticing and Hearing Procedures.

1) Noticing Requirements.

a) For hearings by the Planning Commission, notice of the time and place when the application will be considered shall be given as follows:

(1) The time and place of the hearing;

(2) A general explanation of the matter to be considered, including a description of the area affected;

(3) Any other information the Zoning Administrator considers necessary or desirable.

2) Time and Manner for Giving Notice.

a) Unless otherwise specified, the notice of the time and place of the hearing shall be given by mailing notice postage prepaid at least ten (10) days prior to the date of the scheduled hearing to the applicant, each person who has filed a request for the notice, and to each owner of property within three hundred (300) feet of the subject property's property lines. In the case of an appeal, a notice shall also be mailed to the person filing the appeal.

3) Written Findings Required.

a) For design review applications requiring Planning Commission review, written findings shall be made for the decision, whether for approval or denial. Written findings for the decision shall also be made in the case of an appeal.

b) For design review applications that fall under the review of the Zoning Administrator, written findings for the decision to approve the building permit shall not be required.

4) Authority to Adopt Conditions of Approval.

a) The Planning Commission may adopt conditions of approval in the approving resolution for design review if it finds that the proposed design does not meet the applicable design review standards.

5) Appeal Procedures.

a) Any person aggrieved by the action of the reviewing authority, whether it be the Zoning Administrator or Planning Commission, may file a written notice to appeal the action to the next highest reviewing authority as prescribed in this article. If no written appeal is filed, the action taken on the application is final.

b) A written appeal shall be filed with the Planning Division within ten (10) days of the decision to approve the design review. Incomplete appeals or appeals submitted after ten (10) days of the decision to approve the design review will not be accepted.

c) A written appeal shall be accompanied by a written statement explaining the grounds for appeal and payment of the appeal fee, as prescribed in the City's adopted fee schedule at the time the appeal is filed.

d) In the case where the City Council acts on behalf of the Planning Commission, an appeal of the decision may not be filed.

i. Penalty for Violations.

1) A person who builds or maintains a building or structure in violation of the requirement of design review approval prescribed in this article is guilty of an infraction and shall be punished as provided in Section 1.5.002 et al. Each day or a portion thereof that a violation exists is a separate offense and shall be punished as such.

(Sec. 5, Ordinance No. 08-15, adopted July 14, 2015; Sec. 2, Ordinance No. 07-12, adopted September 11, 2012)

9.1.1606 Temporary Use Permit.

a. Purposes. A temporary use permit allows for the short-term use of property. The following is a partial list of the types of uses that are subject to a temporary use permit. Other uses of a similar nature also require such permit:

1) Animal shows.

2) Christmas tree lots and pumpkin patches.

3) Commercial filming.

4) Parking lot sales/events.

5) Grand openings.

6) Carnivals and circuses.

7) Other promotional uses involving temporary outdoor display and sales and similar uses.

8) Temporary trailer.

9) Tent sales.

10) Car shows.

11) Foot races/walks.

12) Whenever patrons are allowed, encouraged or permitted to congregate outside of the building housing the business.

13) Promotional or special events outside the normal operating standards of a business.

b. Application Requirements. Any person, business or organization wishing to conduct or sponsor a special event subject to this section shall apply for a temporary use permit by filing an application and application fee with the Community Development Department at least thirty (30) days prior to the date on which the event is to occur. Applications may be submitted on shorter notice with the consent of the Community Development Department, which may impose an expedited processing fee. Application forms for a temporary use permit shall include the following:

1) A completed and signed application form.

2) Application fee.

3) Site plan indicating the location of driveways, display areas, temporary structures and facilities, parking areas, trash collection, signs, and any additional information requested by staff.

4) If the property where the event is to occur is owned by someone other than the applicant, the applicant shall obtain written approval from the property owner or its duly authorized representative, such written approval to be submitted with the special event application.

5) Business license, if required.

c. Standards. Temporary use permits shall be subject to the following conditions and criteria:

1) No permit shall be valid for more than sixty (60) days; however, an additional thirty (30) day extension may be granted by the Community Development Department.

2) The permit is valid only for the dates shown on the approved permit.

3) The right-of-way, including streets and sidewalks, shall be kept free of all obstructions and/or debris.

4) If required, a building/electrical permit shall be obtained from the Building Department.

5) Temporary lighting shall not cause glare onto neighboring properties or the public right-of-way.

6) The applicant shall ensure that noise, dust, dirt, odors and/or other nuisances do not affect neighboring properties.

7) The event must provide adequate parking, including parking spaces for the disabled, as required by the Community Development Department.

8) Upon conclusion of the temporary use, all items associated with it must be removed and the premises restored to its original condition within one week of the conclusion of the event and/or expiration of the permit, whichever is earlier.

9) A refundable cash deposit shall be deposited with the City to ensure that the property is restored to its original condition in a timely manner.

10) No loud speakers or amplified music may be allowed for any temporary use, unless the permit specifically authorizes speakers or amplified music. If such approval is granted, the

City Manager or his/her designee may rescind such approval should noise become a disturbance or nuisance.

11) If a trailer or recreational vehicle is used for habitation, a permit must be obtained from the Building Department. The unit must be self-contained. Sewage and wastewater may not be dumped on the site.

12) The provisions of this section apply to all zoning districts.

d. Basis for Denying Permit. A temporary use permit shall be denied if any of the following factors are involved:

1) Any of the standards contained in subsection (c) of this section cannot be met.

2) The intensity of the use is likely to exceed the capacity of the area or property.

3) The temporary use is likely to result in any public nuisance, including, but not limited to, noise, dust or vibration to nearby properties.

4) The temporary use is likely to create traffic or vehicular access safety issues, would violate Uniform Fire Code standards, or would interfere with any public sidewalk or street.

5) The temporary use is likely to lead to the violation of any ordinance, rule or statute.

6) Other issues adversely affecting public health, safety or welfare, as articulated and specified by the official denying the permit.

(Sec. 1, Ordinance No. 17-11, adopted August 9, 2011)

9.1.1608 Unclassified Uses.

a. Purpose. It is recognized that in the development of a comprehensive zoning ordinance not all uses of land can be listed nor can all future uses be anticipated, or a use may have been omitted from the list of those specified as permissible in the various zones listed within this chapter, or ambiguity may arise concerning the appropriate classification of a particular use within the meaning and intent of this title.

Such unlisted uses are sometimes referred to in this title as "unclassified uses."

b. Approval of Unclassified Uses. In addition to the permitted and conditionally permitted uses listed in the Commercial zones (CD, RB, C, BPH, BPL, CR-A, and CR-NA) or Industrial zones (LI, and UE), presently unlisted uses may be permitted in the zones listed above when approved in accordance with the provisions of this chapter. This chapter does not apply to Residential zones (R-6, R-7, R-10, R-12, R-15, R-20, R-40, M-9, M-12, M-17, MH), Public/Semi-Public zones (P), and Open Space zones (A-4, PR, and DR).

c. Procedure for Approval. Any person seeking to establish an unclassified use as a permitted or conditionally permitted use in any Commercial zones (CD, RB, C, BPH, BPL, CR-A, and CR-NA) or Industrial zones (LI, and UE) may submit a written request for determination to the Zoning Administrator. After receipt of the request, the Zoning Administrator shall make a final determination within thirty (30) days. Upon granting the request, the Zoning Administrator shall notify the City Council. The Zoning Administrator's decision shall be final unless appealed in accordance with Section 2.4.020. The decision of the Zoning Administrator may also be appealed by the City Council in accordance with Section 9.1.1612(e)(4)(ii).

d. Findings. Any unclassified use may be permitted where it is determined similar to the other permitted uses in the zone and not more obnoxious or detrimental to the public health, safety and welfare than such other permitted uses. Such a determination may be made where the approving body finds that all of the following conditions exist:

1. That the subject use and its operation is consistent with the goals and objectives of the general plan; and

2. That the subject use and its operation is consistent with the purposes and intent of the zone in which the use is proposed to be located; and

3. That the subject use and its operation is a compatible use in all areas of the City where the zoning is applied; and

4. That the subject use is similar to one or more uses permitted or conditionally permitted in the zone within which it is proposed to be located. A use shall be deemed to be similar only where the size, scale, design, and impact of the use is comparable. A use shall not be deemed to be similar when the operation of the use involves greater impacts in terms of traffic, parking, noise, glare, odor, refuse or other environmental considerations; generates greater demand for public services; does not have comparable hours of operation; is significantly more intensive in the number of employees, patrons and other users of the facility; and is not complementary to other uses in the zone; and

5. That the subject use and its operation will not adversely affect other permitted uses in the zone within which the use is proposed to be located; and

6. That the subject use will be so designed, located and operated that the public health, safety and general welfare will be protected.

(Sec. 2, Ordinance No. 04-09, adopted January 27, 2009)

9.1.1610 Amendments.

a. Purposes. The Zoning Code may be amended by changing the boundaries of any district or by changing any district regulation.

b. Initiation.

i. A change in the boundaries of any district may be initiated by:

1. The owner of the property within the area for which a change of district is proposed or the authorized agent of the owner filing an application for a change in district boundaries. If the area for which a change of district is proposed is in more than one ownership, all the property owners or their authorized agents shall join in filing the application.

2. A resolution of the Planning Commission or action of the City Council in the form of a request to the Commission that it consider a proposed change in boundaries.

ii. A change in boundaries of any district, or a change in a district regulation may be initiated by resolution of the City Planning Commission or by action of the City Council in the form of a request to the Commission that it consider a proposed change, provided that in either case the procedure prescribed in Sections 10-D-1.3 through 10-D-1.8 shall be followed.

c. Application and Fee. A property owner desiring to propose a change in the boundaries of the district in which his property location or its authorized agent may file an application with the City Planning Commission for a change in district boundaries which shall include the following data:

1. Name and address of the applicant.

2. Statement that the applicant is the owner of the property for which the change in district boundaries is proposed or the authorized agent of the owner.

3. The application shall be accompanied by a sketch of the site showing the location of the property with respect to adjacent properties and streets.

4. The application shall be accompanied by a fee set by resolution of the City Council sufficient to cover the cost of processing the application as prescribed in this section.

5. In the event the proposed amendment is to change the boundaries of any district or to change the district designation of any property an accurate scale drawing of the site and the surrounding area for a distance of 300 feet from each boundary of the site shall be submitted. Such drawing shall also show the locations of existing streets and property lines. Such drawing shall also be accompanied by a list of the names and last known addresses of the recorded legal owners of all properties shown on the drawing.

d. Public Hearing – Notice.

1. The City Planning Commission shall hold at least 1 public hearing on each application for a change in district boundaries or of a district regulation initiated by the Commission or the

City Council. Notice of the public hearing shall be given not less than 10 calendar days nor more than 30 days prior to the date of the hearing and by publication in a newspaper of general circulation within the City.

2. When a public hearing is to be held on an application or a proposal for a change in a district boundary, notice of a public hearing shall be given not less than 10 days nor more than 30 days prior to the date of the hearing by mailing, postage prepaid, a notice of the time and place of the hearing to all persons whose names appear on the latest adopted tax roll of Contra Costa County as owning property within 300 feet of the boundaries of the area occupied or to be occupied by the use which is the subject of the hearing.

e. Hearing.

1. At the public hearing the City Planning Commission shall review the application or the proposal and may receive pertinent evidence as to why or how the proposed change is necessary to achieve the objectives of the Zoning Ordinance prescribed in Section 9.1.102(a).

2. The commission may review proposals for the use of the property for which a change in district boundaries is proposed or plans or drawings showing proposed structures or other improvements, in the light of the fact that under the provision of this ordinance a change in district boundaries cannot be made conditionally and the owner of the property is bound only to comply with the regulations.

f. Investigation and Report. The Community Development Director shall make an investigation of the application of the proposal and shall prepare a report thereon which shall be submitted to the city Planning Commission.

g. Action of City Planning Commission. Within 45 days following the public hearing the City Planning Commission shall make a specific finding as to whether the change is required to achieve the objectives of the zoning ordinance prescribed in Section 9.1.102(a). The Commission shall transit a report to the City Council recommending that the application be granted or denied or that the proposal be adopted or rejected, together with 1 copy of the application, resolution of the Commission or request of the Council, the sketch of the site and the surrounding area and all other data filed therewith, the minutes of the public hearing, the report of the Community Development Director and the findings of the Commission.

h. Action of the City Council.

1. The City Council shall consider the recommendation of the Planning Commission at a public hearing duly noticed as prescribed by State Law.

2. At the time and place set for the public hearing the City Council shall review the application and the resolution or report of the Commission, the report of the Community

Development Director and any public comments.

3. The City Council shall make a specific finding as to whether the change is required to achieve the objectives of the Zoning Ordinance prescribed in Section 9.1.102. If the Council finds that the change is required, Council shall enact an ordinance amending the zoning map or an ordinance amending the regulations of the Zoning Ordinance, whichever is appropriate. If the Council finds that the change is not required, Council shall deny the application or reject the proposal.

i. Change of Zoning Map. A change in a district boundary shall be indicated on the zoning map with a notation of the date and number of the ordinance amending the map.

j. New Application. Following the denial of an application for a change in a district boundary, no application for the same or substantially the same change shall be filed within 1 year of the date of the application.

(Sec. 2, Ordinance No. 04-09, adopted January 27, 2009)

9.1.1612 Authorities.

a. Composition of Planning Agency.

i. Composition of Planning Agency Under Sections 65100--65512 of the Government Code, there is created the Planning Agency of the City consisting of the following component members:

1. City Council;

2. Planning Commission;

3. Community Development Department.

ii. Such other components as the City Council may create.

b. Responsibilities of the Commission. The Planning Commission shall:

1. Recommend for adoption by the City Council a comprehensive long term general plan for the physical development of the City;

2. Recommend for adoption by the City Council specific plans based on the general plan and drafts of such regulation, programs and legislation as may in its judgment be required for the systematic execution of the general plan;

3. Periodically review the capital improvement program of the City for conformation with the General Plan;

4. Recommend a zoning ordinance for adoption by the City Council;

5. Recommend to the City Council the approval, disapproval or modification of maps or plats of land subdivision in accordance with the Subdivision Map Act and City Subdivision Ordinance;

6. Perform other duties regarding planning, zoning and State Law matters prescribed by the City Council; and

7. Act as the Board of Zoning Appeals, with the option to appeal to City Council.

c. Community Development Department and Community Development Director.

1. The City Manager appoints the Community Development Director on the basis of qualification with the approval of the City Council. In the absence or disability of the Community Development Director, the City Manager shall designate a person to perform the duties and exercise the powers of the Community Development Director. The Community Development Director is subject to the City Manager's general administrative direction.

2. The Community Development Director manages the Community Development Department. Subject to the City Manager's approval, the Community Development Director may organize and maintain such diversions in the department as in his judgment the operations require. The Community Development Director is responsible for the direction and control of functions assigned to the department.

d. General Powers and Duties of Community Development Director. The Community Development Director has the following duties:

1. Provides staff assistance to the City Council, City Manager, and Planning Commission;

2. Serve as Secretary to the Planning Commission, or designate an assistant to serve as the Secretary;

3. Make surveys, gather data, prepare reports, maps, charts and graphic presentation, adoption and revision of the general plan;

4. Enforce the planning and zoning laws of the State and ordinances of the City;

5. Conduct the City's environmental review process in accordance with the State Environmental Quality Act and generally be responsible for environmental matters;

6. Act as the Zoning Administrator;

7. Hear and decide applications as may be authorized by ordinance or elsewhere in this chapter; and

e. Appeals (Ordinance No. 18-01, November 13, 2001).

1. Appeals from Administrative Decisions. An appeal may be taken to the Planning Commission from the whole or any portion of an administrative determination or decision made by the Community Development Director.

2. Appeals from Decisions of the Planning Commission. An appeal may be taken to the City Council from the whole or any portion of a decision made by the Planning Commission, regardless of whether the Commission is exercising original or appellate jurisdiction.

3. No appeal from ministerial actions. No right to appeal decisions shall exist when the decision or action is ministerial and does not involve the exercise of judgment or deliberation.

4. Who May Appeal.

i. Any person interested in or affected by a decision or determination of the Community Development Director or Planning Commission, including without limitation applicants and members of the City Council of the City of Oakley, may appeal the applicable decision or determination. Any interested or affected person, other than a Council Member, must additionally (1) have appeared, either in person or through a representative explicitly identified as such, at a public hearing connected to the decision or determination being appealed, (2) have informed the City in writing of the nature of his/her concerns before that hearing, or (3) be a current member of the City Council at the time of the decision/ determination.

ii. Any member of the City Council of the City of Oakley shall not be charged any fee for the processing or noticing of the appeal. If a Council Member appeals a decision, there shall be a presumption applied that the appealed action has significant and material effects on the quality of life within the City of Oakley. Notwithstanding any other provision of the Municipal Code, a Council Member shall not be required to state any other reason in his/her written appeal. No inference of bias shall be made because of such an appeal.

iii. A representative of the City government presenting departmental recommendations at a hearing is prohibited from appealing a decision reached at such a hearing.

5. Filing of Appeals.

i. Notice of Appeal and Filing Fee. All appeals of decisions of the Zoning Administrator or the Planning Commission shall be made by filing a notice of appeal clearly identifying the determination or decision from which the appeal is taken and stating the grounds for the appeal, including a statement of the reasons that the person satisfies the requirements subsection (4) above. The notice shall further include any information required and may include any explanatory materials the appellant chooses to include. The

notice of appeal shall be accompanied by the payment of a filing fee in such amount as established from time to time by resolution of the City Council.

ii. Time Limit on Notice of Appeal. The notice of an appeal to the Planning Commission or to the City Council must be filed, together with payment of the filing fee, within 15 calendar days of the action that is the subject of the appeal. Appeals beyond 15 calendar days shall not be accepted.

iii. Filing Notice of Appeal. The notice of an appeal shall be filed with the City Clerk.

iv. Effect of Appeal. In the event of an appeal, the action that is the subject of the appeal shall not be effective until final action by the appellate body.

6. Review by Planning Commission.

i. Schedule of Hearing; Notice. Upon receipt of the notice of appeal and payment of the filing fee, the City Clerk shall schedule the matter for hearing at the next available regular meeting of the Planning Commission to be held within 30 calendar days after the date on which the notice of appeal is filed. The City Clerk shall provide notice of the hearing to the appellant and applicant and to other City residents (as provided for in Sections 9(c) and 10(b), as applicable, of Ordinance No. 13-00, October 23, 2000). In the event that no regular meeting of the Planning Commission is scheduled within 30 calendar days of the appeal, the City Clerk shall schedule the matter for the first regular meeting to occur after that 30-day period.

ii. Conduct of Hearing by Planning Commission. The Planning Commission shall hold the appeal hearing at the date, time, and place stated in the required notice. The Planning Commission shall conduct a de novo review on the appeal. No public hearing shall be required unless the administrative determination or decision was made in connection with a proceeding that required a public hearing; however, nothing herein shall prevent the Planning Commission, in its discretion, from receiving from any person testimony or other evidence pertaining to the subject matter of the appeal. At the hearing, the Commission may consider only those issues involving matters that are the specific subjects of the appeal. Any hearing may be continued, if prior to the adjournment or recess of the hearing, a clear announcement is made specifying the date, time, and place to which said hearing will be continued.

iii. Decision by Planning Commission.

a. Action by Commission. By a majority vote of those voting, the Planning Commission may affirm, reverse, or modify the determination or decision that is the subject of the appeal, based upon findings of fact about the particular case. A tie vote shall mean that no action was taken and shall result in the affirmation of the

action being appealed. The findings shall identify the reasons for the action on appeal and verify the compliance or non-compliance of the subject of the appeal with the relevant provisions of the Municipal Code and other applicable law. The Commission may also refer the matter back to the original maker of the determination or decision for such further action as may be directed by the Commission. The Commission may condition its affirmation (as provided for in Section 11(c) or Ordinance No. 13-00, October 23, 2000).

b. Time of Decision by Commission. The Commission shall make its decision within 45 calendar days of the close of the hearing (as provided for in Section 11(e) of Ordinance No. 13-00, October 23, 2000).

7. Review by City Council.

i. Initial procedure upon receipt of notice of appeal. Upon receipt of the notice of appeal and payment of the filing fee, the City Clerk shall place the matter on the agenda of the next regular meeting of the City Council to notify the Council of the appeal and to allow the Council to decide how to process the appeal. The Council may, upon motion, by a majority vote of those voting, select one of the methods of deciding the appeal provided for in this Ordinance. The Council may also continue its consideration of the preferred method of deciding the appeal to its next regularly scheduled meeting, in which case the City Clerk shall provide notice to the appellant and applicant of the subsequent appearance of the appeal on the Council's agenda. If the Council takes no action on the appeal at the meeting at which the appeal first appears on the agenda, or at the meeting to which it continues its consideration, the Council shall subsequently hold a de novo public hearing on the appeal at the time, place, and date set by the City Clerk.

ii. Schedule of Hearing; Notice. The City Clerk shall provide notice to the appellant and applicant of the first appearance of the appeal on the City Council's agenda. If the Council will be conducting a de novo public hearing on the appeal, the City Clerk shall schedule the matter for hearing at a regular meeting of the Council to be held within 30 calendar days after the date on which the appeal first appeared on the Council's agenda, unless the Council continues its consideration to the next regularly scheduled meeting, in which case, the hearing will be held within 30 calendar days of the latter meeting. The City Clerk shall give notice of the hearing to the applicant and appellant and other City residents (as provided for in Sections 9(c) and 10(b) of Ordinance No. 13-00, October 23, 2000). In the event that no regular meeting of the City Council is scheduled within 30 calendar days of the first or second appearance of the appeal on the Council's agenda, which ever is applicable, the City Clerk shall schedule the matter for the first regular meeting to occur after that 30-day period.

iii. Conduct of Hearing by City Council. The City Council shall hold the appeal hearing at

the date, time, and place stated in the required notice. The Council may receive from any person testimony or other evidence pertaining to the subject matter of the appeal. Any hearing may be continued, if prior to the adjournment or recess of the hearing, a clear announcement is made specifying the date, time, and place to which said hearing will be continued.

iv. Decision by City Council.

a. Action by Council. By a majority vote of those voting, the City Council may affirm, reverse, or modify the determination or decision that is the subject of the appeal, based upon findings of fact about the particular case. A tie vote shall mean that no action was taken and shall result in the affirmation of the action being appealed. The findings shall identify the reasons for the action on appeal and verify the compliance or non-compliance of the subject of the appeal with the relevant provisions of the Municipal Code and other applicable law. The Council may also refer the matter back to the original maker of the determination or decision for such further action as may be directed by the Council. The Council may condition its affirmation (as provided for in Section 11(c) of Ordinance No. 13-00, October 23, 2000).

b. Time of Decision by Council. The Council shall make its decision within 90 calendar days of the close of the hearing, as provided for in Section 11(e) of Ordinance No. 13-00. If the appeal does not appear on the agenda of the first City Council meeting after it is filed, or if the City Council does not decide on a method for deciding the appeal at either that meeting or one to which it continued the decision, a de novo public hearing will be held. If a public hearing is selected or required, the decision being appealed shall be deemed affirmed if any of the following occur:

1. The appeal is not heard within 30 days of its first or second appearance on the Council's agenda, which ever is applicable;

2. A continued hearing is not re-opened and closed at a regular meeting of the Council scheduled 30 days after the opening of the hearing or at the first regular Council meeting after that 30-day period; or

3. The Council does not decide the appeal within 90 days of closing the hearing.

v. Alternative methods of deciding appeal; time of decision. If the Council initially votes not to resolve the appeal by conducting a de novo public hearing, it shall select one of the following methods for deciding the appeal by a majority vote of those voting. If the Council selects either of the first two options, it may take the actions described therein at the

meeting at which the appeal first appeared on the agenda or at the meeting to which it continued its consideration of the preferred method of deciding the appeal. Otherwise, the Council shall take action on the appeal within the time period prescribed in Section G (3) and (4b) of this ordinance.

a. T he Council may vote to affirm the action of the Planning Commission without public hearing and without reviewing the record created by the Commission's hearing on the matter.

b. The Council may vote to refer the matter back to the Planning Commission for further proceedings.

c. The Council may vote to affirm, deny, or affirm with conditions the decision of the Planning Commission without a public hearing after reviewing a transcript of the Commission's hearing and the entire record.

d. The Council may, by a majority of those voting, appoint an independent hearing officer to recommend a decision, including any findings or conclusions required for that decision, which the Council may then adopt or, after a review of the record, reject in favor of its own findings, conclusions, and decision.

8. Review by independent hearing officer.

a. If by majority vote, the City Council decides to appoint an independent hearing officer to conduct a hearing on an appeal and to recommend a decision by the Council, the hearing officer shall conduct the hearing in the same manner as provided for the Council in this title. However, the hearing officer shall conduct a hearing on the appeal within 90 calendar days of the Council's vote and shall make a recommendation to the Council within 30 calendar days of the close of the hearing. The City Council shall vote on the hearing officer's recommendation at the next regularly scheduled meeting within 30 calendar days after the hearing officer makes a recommendation.

b. If the applicant is also the appellant, the appellant shall bear the costs incurred by the hearing officer in conducting a hearing and making a recommendation to the Council. Otherwise, the appellant shall not be responsible for the costs of the hearing officer.

9. Effect of Denial. When an application for a permit is denied on appeal, no application for the same or substantially same permit or a permit for the same use on the same property shall be filed for a period of one year from the date of denial, unless the permit was denied without prejudice.

10. Time for Filing Appeals. An appeal to the Planning Commission of a decision of the Zoning Administrator or Community Development Department must be filed within 15 calendar

days of the decision, and an appeal to the City Council of a decision of the Planning Commission must be filed within 15 calendar days of the decision. A notice of appeal shall be filed with the City Clerk.

Article 18 ACCESSORY STRUCTURES

9.1.1802 Accessory Structures Development Regulations.

a. Definitions.

1) "Accessory structure" is an attached or detached (to the main building) building, carport, gazebo, shed, playhouse, or other similar aboveground structure, the use and size of which is subordinate and incidental to that of a main building on the same lot;

2) "Fully enclosed" shall mean an accessory structure that is closed on all sides, such as an outdoor room with walls or windows surrounding, backyard shed, greenhouse, or detached garage;

3) "Partially enclosed" shall mean an accessory structure that is closed on at least two but no more than three sides, such as an outdoor room (e.g., California room), and covered deck, patio, or porch;

4) "Unenclosed" shall mean an accessory structure that is open on at least three sides, such as a covered deck, covered patio, or carport; and

5) "Shipping container" (also referred to as intermodal freight transport, sea container, or cargo container) is typically a twenty (20) to forty (40) foot long durable closed steel container capable of handling large capacity and weight loads over land and sea.

b. Maximum Size and Height.

1) Maximum Size. The maximum size of an accessory structure or combination of accessory structures on any single lot shall be whichever results in a greater allowance of accessory structure square footage between the following two options: (1) as measured in conjunction with all structures on the lot so that the total lot coverage shall not exceed forty percent (40%); or (2) five hundred (500) square feet. Square footage of structures shall be measured as follows:

a) For enclosed structures, such as the main house, detached garages, detached guest rooms/pool houses, enclosed patios, etc., floor area (interior walls to interior walls) shall be used to measure square footage; and

b) For unenclosed structures, such as gazebos, attached and detached carports, patio covers, trellises, etc., roof area coverage (as measured perpendicular to ground) shall be used to measure square footage.

2) Maximum Height. The maximum height for any single accessory structure as measured to the peak of the roof or highest portion of the structure, whichever is higher, shall be as follows:

a) Fifteen (15) feet in height when the accessory structure or portion thereof is located within any of the required yards for the applicable zoning district; and

b) Accessory structures completely located outside of all required yards, subject to the applicable zoning regulations, may exceed fifteen (15) feet in height. All accessory structures exceeding fifteen (15) feet in height shall use materials, design, and colors that complement and/or match the main structure, subject to the review and approval of the Planning Division.

c. Minimum Setbacks.

1) All Residential Lots.

a) Accessory structures shall be located outside of the required front yard (front yard setback) and shall not have any portion closer than the main house to the front property line, except: (1) unenclosed, nonsolid roof gazebos, pergolas or similar structures may be located in front of the house, but not within the required front yard setback; (2) decorative landscape trellises and arbors covering no more than thirty-two (32) square feet and no more than eight feet tall may be located within the required front yard, but not within the public right-of-way; and (3) accessory structures that match or complement the design, materials, and colors of the main house on large lots (forty thousand (40,000) square feet or larger) where the accessory structure is located a minimum of fifty (50) feet behind the front property line, subject to the review and approval of the Planning Division;

b) Detached accessory structures that are exempt from a building permit and are no higher than the height of the adjacent fence to which they are to be placed may be located within the required side or rear yard of any lot, up to the property line, only if the accessory structure maintains a minimum clearance of five feet to any other structure, excluding the fence. No accessory structure may be attached to a shared fence;

c) All detached "fully enclosed," detached "partially enclosed," and detached or attached "unenclosed" accessory structures that are one thousand five hundred (1,500) square feet or less shall maintain a minimum setback of three feet to the side and rear property lines. No portion of an accessory structure, its roof, or any other material that is a part of the accessory structure (i.e., overhang, gutter, support beam, etc.) shall project into the minimum setback;

d) Single structures that are greater than one thousand five hundred (1,500) square feet

shall maintain the generally applicable setback standards for the relative zoning district; and

e) For all attached "fully enclosed" and attached "partially enclosed" accessory structures, refer to Section 9.1.1122(g).

2) Nonresidential Districts. The minimum setbacks for accessory structures in nonresidential districts shall be the generally applicable setback standards for each district.

d. Maximum Coverage in Required Rear and Side Yards.

1) Consistent with Section 9.1.404(f)(5), accessory structures shall occupy no more than fifty percent (50%) of a required rear yard. This shall also apply to the maximum coverage of a required side yard as measured from the front setback line to the rear property line. For structures located within both a required rear yard and required side yard, the area of coverage shall apply to the maximum allowable coverage for each required yard separately.

e. Design Standards.

1) Accessory structures shall be consistent with the City of Oakley Residential Design Guidelines, which include having matching materials and architectural style to that of the primary unit.

2) Accessory structures may consist of pre-built or pre-fabricated sheds, carports, gazebos, etc., that do not match the material of the primary unit so long as the accessory structure's original design, intent, purpose, and placement is as a residential backyard structure.

3) Shipping containers are not permitted as residential accessory structures unless the following criteria can be met, subject to the review and approval of the Community Development Director:

a) The shipping container is redesigned and repurposed to appear and function as a residential accessory structure through the additional of a pitched roof that matches the color of the primary unit's roof, and the addition of texture coating or exterior veneer to disguise the industrial appearance of such structures and that matches the color of the primary unit;

b) The shipping container is structurally modified to include at least one residential main door that can be unlocked and opened from inside the container; and

c) Subject to review and approval of the Community Development Director, exceptions may be made for the standard in subsection (e)(3)(a) of this section if the shipping container is screened from public and private view by a solid fence as seen from adjacent ground level.

f. Variance Requests.

1) Any request for an exception to this article shall be subject to Section 9.1.1602, Variance and Conditional Use Permits.

(Sec. 1, Ordinance No. 21-19, adopted December 10, 2019; Sec. 1, Ordinance No. 05-18, adopted April 10, 2018; Sec. 1, Ordinance No. 07-17, adopted May 23, 2017; Sec. 5, Ordinance No. 18-16, adopted August 9, 2016; Ordinance No. 16-13, adopted December 10, 2013; Sec. 2, Ordinance No. 10-13, adopted August 13, 2013; Sec. 1, Ordinance No. 08-10, adopted May 25, 2010; Sec. 2(C), Ordinance No. 05-10, adopted March 9, 2010)

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[1] Code reviser's note: In Ord. 11-10 this sentence originally read, "For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are subject to do not have to be based upon individual subdivision maps or parcels." The sentence has been corrected at the direction of the city, and new legislation making the corrected language official is pending.